

LAWS
OF THE
TERRITORY OF HAWAII
PASSED BY THE
TWENTY-THIRD LEGISLATURE

REGULAR SESSION
1945

**Convened on Wednesday, the Twenty-first Day of February, and
Adjourned Sine Die on Friday, the Fourth Day of May**

**Published by Authority under the
Direction of the Secretary of Hawaii
Honolulu, Hawaii**

**Printed by
Honolulu Star-Bulletin
125 Merchant St.
1945**

FOREWORD

§§ 2-3, REVISED LAWS OF HAWAII 1945, PROVIDE AS FOLLOWS:

"Sec. 2. **Laws published by secretary.** The secretary of the Territory shall promulgate all the laws enacted by the legislature, except general or special appropriation acts, loan fund acts, pension acts and franchise acts, by publishing the same once in the English language in a newspaper of general circulation published daily in Honolulu in the English language. Any of such excepted acts may, however, be published when the governor so directs. After such publication, the secretary shall cause the same, together with all other laws duly enacted at any session of the legislature, to be printed, indexed and bound in book form. The index to any volume of the laws enacted at any regular session shall be cumulative and shall include an index of all laws enacted at every preceding regular or special session of the legislature since the publication of the last revision of the laws of the Territory. Before publishing any act in book form, the secretary is directed to conform the style thereof as near as may be with that of the latest revision of the statute law of the Territory. He is directed, before publishing them in book form, to classify all acts by serial letters or numbers or both and to insert appropriate supplementary chapter and section numbers and headnotes together with section histories, wherever necessary to aid in placing amendments or new sections or chapters in an appropriate supplementary sequence with the latest revision of the laws; and such amendments, new sections and new chapters may be cited by reference to such supplementary chapter and section numbers of such latest revision."

"Sec. 3. **Certain acts not obligatory until published.** No written law, unless otherwise specifically provided by legislative enactment, except general or special appropriation acts, loan fund acts, pension acts and franchise acts, shall be obligatory without first being printed and made public. General or special appropriation acts, loan fund acts, pension acts and franchise acts, whether affecting territorial funds or the funds of county or other municipal subdivisions or commissions, shall become operative according to their respective terms merely by being passed and approved in the manner provided by sections 44 to 54, inclusive, of the Organic Act without the necessity of any other promulgation than the ultimate inclusion thereof in the bound volume of respective session laws as provided in section 69 of the Organic Act."

§§ 2-3, JOINT RESOLUTION NO. 4, 1945, PROVIDE AS FOLLOWS:

"Section 2. That the secretary of the Territory be and he is hereby authorized, in complying with the provisions of section 2 of said Revised Laws, before publishing any Act in book form, to change or correct any chapter or section numbers contained as a part of or referred to in any such Act, whenever necessary to carry out the intent of said section 2. Such changes shall be made on the engrossed copy of each such Act and shall be initialed by the secretary thereon."

"Section 3. That any Act of the legislature may be cited by reference to the chapter and section numbers as inserted or added or changed by the secretary of Hawaii pursuant to the provisions of said section 2 and the provisions of this resolution as the same are set forth in the printed volume of the laws enacted at any regular session of the legislature, published in book form by said secretary pursuant to the provisions of said section 2 and of this resolution."

THE LATEST REVISION OF THE STATUTE LAW WAS ENACTED IN 1945 BY ACT 1, SERIES A1, AND IS PUBLISHED IN A VOLUME ENTITLED "REVISED LAWS OF HAWAII 1945."

(The valuable assistance of Hon. A. M. Cristy in the compilation of the material in this volume is acknowledged.)

C E R T I F I C A T E

Territory of Hawaii
Office of the Secretary

I, Gerald R. Corbett, Secretary of the Territory of Hawaii, do hereby certify that the printed Acts and Joint Resolutions set forth herein are, except as otherwise specifically noted, true and correct copies of the original Acts and Resolutions enacted by the Twenty-third Legislature of the Territory of Hawaii at its regular session of 1945, which was convened in Honolulu on Wednesday, the twenty-first day of February, 1945, and adjourned sine die on Friday, the fourth day of May, 1945; that all such Acts and Resolutions, except as otherwise specifically noted, were approved by the Governor of Hawaii in accordance with the provisions of the Organic Act.

I further certify that the classification of such Acts and Resolutions and the addition of supplementary chapter and section numbers and headnotes, section histories and footnotes has been done under my direction pursuant to applicable provisions of law.

I further certify that all of such Acts and Resolutions required to be promulgated by publication have been duly published in accordance with law.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the Territory of Hawaii on the 10th day of October, 1945.



A handwritten signature in dark ink, reading 'Gerald R. Corbett'. The signature is fluid and cursive, with a large initial 'G' and a long, sweeping underline.

Gerald R. Corbett
Secretary of Hawaii

CHIEF EXECUTIVE AND OFFICERS AND MEMBERS
OF THE TWENTY-THIRD LEGISLATURE OF THE
TERRITORY OF HAWAII

REGULAR SESSION OF 1945

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D—Democrat 9
 R—Republican 21

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LAWS OF THE TERRITORY OF HAWAII
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LEGISLATURE
1945.

Acts arranged in sequence with Parts A-E of the Revised Laws of Hawaii 1945; all additions, notes and brackets [] added by the Secretary of Hawaii under authority of R. L. 1945, s. 2 and of L. 1945, J. R. 4, post.

Title I. GENERAL LAWS.

Series A-1: ACT 1

An Act to Enact the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Enactment of Revised Laws. Chapters 1 to 326, both inclusive, and each section thereof, set forth on pages 81 to 1672, both inclusive, of the volume prepared by the commission appointed under the provisions of Act 8 of the Session Laws of 1943, and the revision of sections 1 to 5, both inclusive, of Act 253 of the Session Laws of 1939, set forth as paragraphs (a) to (e), both inclusive, of the note to section 6864 on pages 867 and 868 of that volume, are hereby enacted as law to take effect on the approval of this Act. The volume shall be designated and may be cited as "Revised Laws of Hawaii 1945".

Section 2. Repeal of prior laws; what not repealed. All statutes in force immediately prior to the approval of this Act, which are embraced, with or without change, in the said sections or note, are hereby repealed, and so much of the said sections and note as is applicable or corresponds thereto shall be in force in lieu thereof; **provided**, however, that said repeal shall not apply to or affect the following, except to the extent that the same heretofore have been superseded or repealed, to wit:

a. Any provision which is not subject to repeal, or as to which the applicable or corresponding provisions of said volume could not be enacted by the legislature without the approval of Congress.

b. Any statute or part thereof of which no part is embraced in the said sections and note.

c. Any statute referred to in the notes on sewer works and water works appended to sections 6521, 6841 and 6842, except Act 96 of the Session Laws of 1929 and Act 222 of the Session Laws of 1927, embraced in chapter 132.

d. Any statute referred to in the notes in the appendix to the Revised Laws of Hawaii 1945, whether or not a part thereof has been embraced in the sections and note enacted as law by section 1 of this Act.

e. Any appropriation act, loan fund act, special pension act, or franchise act, or any provision of like nature in any other act whether or not a part thereof has been embraced in the sections and note enacted as law by section 1 of this Act.

f. Any provision of a temporary nature the functions of which have been fulfilled.

g. Any provision in the nature of a saving clause or short title, or any provision relating to constitutionality, legislative findings or intent, interpretation, or the repeal of laws.

h. Any provision as to the time at which or manner in which provisions embraced in said sections or note were or are to take effect or apply, or other transition provisions.

i. Any provision as to the effect of noncompliance of any territorial law or part thereof with any federal law, or as to the effect of failure to secure a certificate or approval of any federal officer or other federal agency, and notwithstanding the enactment of the Revised Laws of Hawaii 1945 such noncompliance, or the failure to secure such certificate or approval, shall have the same effect as if said revised laws had not been enacted.

Section 3. Preservation of rights and liabilities. Said repeal shall not affect any act done, ratified or confirmed, or any right accruing or accrued or established, or any action, suit or proceeding had or commenced in any civil cause, prior to said repeal, but all rights and liabilities under any statute embraced in the said sections or so repealed shall continue, and may be enforced in the same manner and with the same effect as if said repeal had not been made; nor shall said repeal in any manner affect the right to any office or change the term or tenure thereof.

Section 4. Preservation of penalties for offenses, etc. Said repeal shall not affect any offense committed or any punishment, penalty or forfeiture incurred, prior to said repeal, under any statute embraced in the said sections or so repealed, but every such offense may be prosecuted and punished, and every punishment, penalty or forfeiture imposed and enforced, in the same manner and with the same effect as if said repeal had not been made.

Section 5. Preservation of statutes of limitation. No statute of limitations, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, embraced in the said sections, or so repealed, shall be affected thereby, but all suits, proceedings and prosecutions,

whether civil or criminal, for causes arising or acts done or committed prior to said repeal may be commenced and prosecuted with the same effect as if said repeal had not been made.

Section 6. Construction of Revised Laws. Provisions in the said sections and note shall be construed as continuations or amendments of applicable or corresponding provisions of previously existing laws and not as new enactments. In case of a conflict between two or more sections or between said note to section 6864 and any section or sections, or in case of a latent or patent ambiguity or obvious clerical error in any section or said note, reference may be had to the previously existing laws for the purpose of applying the rules of construction relating to repeal by implication or for the purpose of resolving the ambiguity or correcting the error.

Section 7. Statutory references in existing laws. References in statutes not repealed to provisions which are embraced, with or without change, in the said sections and note, shall be construed as applying to such provisions in the said sections and note. The references to said sections incorporated in brackets, or without brackets, in the notes in the appendix of the Revised Laws of Hawaii 1945 are hereby approved.

Section 8. Appendix of Revised Laws. The notes in the appendix of the Revised Laws of Hawaii 1945 shall constitute *prima facie* evidence of the statutes, or portions thereof, therein contained, as amended prior to this session of the legislature, but shall not preclude reference to, or control in case of any difference, the force or effect of any original act as passed by the legislature or any previous duly enacted revision. Such notes may be cited by note number or by page number.

Section 9. Effect of earlier acts at this session. The enactment by section 1 of this Act of the sections and note therein referred to shall not affect or repeal any act passed at this session of the legislature prior to the date of approval of this Act, but all acts so passed shall have full effect as if passed after such date, and so far as such acts vary from or conflict with any provision contained in said sections and note, they shall have the effect of subsequent acts, and as repealing any portions of the said sections and note inconsistent therewith.

Section 10. Effective date. This Act shall take effect upon its approval.

(Approved March 1, 1945.) S.B. 11, Act 1.

Chapter 1. COMMON LAW, STATUTES AND DEPOSITARIES.

[Sec. 2, see J. R. 4, secretary's authority to conform style, etc., to R. L. 1945.]

Series A-2: ACT 233

An Act Relating to Statutory Construction.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 14 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the words and punctuation "where, from the subject matter, the sense and connection in which the words are used, such construction appears to be intended", in the fourth, fifth and sixth lines thereof, the words "unless otherwise expressed or obviously intended".

Section 2. Section 15 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the words and punctuation "where the subject matter, sense and connection require such construction", in the second and third lines thereof, the words "unless otherwise expressed or obviously intended".

Section 3. Section 16 of said Revised Laws is hereby amended by substituting for the words and punctuation "where it appears, from the subject matter, the sense and connection in which such words are used, that such construction is intended", in the fifth, sixth and seventh lines thereof, the words "unless otherwise expressed or obviously intended".

Section 4. The sections of said Revised Laws amended by this Act and all other provisions of said Revised Laws relating to general statutory construction, shall apply not merely to laws now in force but to all that shall hereafter be enacted unless otherwise expressly provided.

Section 5. This Act shall take effect upon its approval.

(Approved May 19, 1945.) S.B. 283, Act 233.

Note: As so amended, §§ 14, 15, 16 read:

"Sec. 14. Number and gender. Words in the masculine gender signify both the masculine and feminine gender, and those in the singular or plural number signify both the singular and plural number, and words importing adults signify youths or children, unless otherwise expressed or obviously intended. [P. C. 1869, c. 1, s. 5; R. L. 1925, s. 14; R. L. 1935, s. 15; R. L. 1945, s. 14; am. L. 1945, c. 233, s. 1.]"

"Sec. 15. 'Or,' 'and.' Each of the terms 'or' and 'and,' has the meaning of the other or of both, unless otherwise expressed or obviously intended. [P. C. 1869, c. 1, s. 4; R. L. 1925, s. 15; R. L. 1935, s. 16; R. L. 1945, s. 15; am. L. 1945, c. 233, s. 2.]"

"Sec. 16. 'Person,' 'others,' 'any,' etc. The words 'person,' or words importing persons, for instance, 'another,' 'others,' 'any,' 'anyone,' 'anybody,' and the like, signify not only persons, but corporations, firms, associations, societies, communities, assemblies, inhabitants of a district, or neighborhood, or persons known or unknown, and the public generally, unless otherwise expressed or obviously intended. [C. C. 1859, s. 17; R. L. 1925, s. 16; R. L. 1935, s. 17; am. L. 1939, c. 150, s. 1; R. L. 1945, s. 16; am. L. 1945, c. 233, s. 3.]"

[Sec. 21, amended by J. R. 8, post, adding January 30th, birthday of Franklin Delano Roosevelt as a holiday.]

Series A-3: ACT 238

An Act to Amend Section 31 of the Revised Laws of Hawaii 1945 Relating to the Board of Commissioners of Public Archives.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 31 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto at the end thereof a new sentence to read as follows:

"The board may adopt and use a seal and may adopt, and amend or revise from time to time, such rules and regulations as it may consider expedient for the conduct of its business."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1945.) S.B. 343, Act 238.

Note: As so amended, § 31 reads:

"Sec. 31. Duties of board. It shall be the duty of the board to collect all public archives, to arrange, classify and inventory the same; to provide for their safe keeping; and to compile and furnish information concerning them. The board may adopt and use a seal and may adopt, and amend or revise from time to time, such rules and regulations as it may consider expedient for the conduct of its business. [L. 1905, c. 24, s. 2; R. L. 1945, s. 31; am. L. 1945, c. 238, s. 1.]"

[See R. L. 1945, §§ 9889, ff. certified copies of records; § 458, as amended, post Act 248, A-11, fees.]

§3

Chapter 3. CLASSIFICATION.

Series A-4: ACT 263

An Act Relating to the Compensation, Privileges, Benefits and Conditions of Employment of Officers or Employees of the Territory of Hawaii or of any of its Political Subdivisions, or Other Public Officers and Employees, Continuing Base Salaries of the Members of the Police and Fire Departments of the City and County of Honolulu, Increasing the Base Pay of Other Public Officers and Employees, Providing for Additional Compensation for Certain of Such Officers or Employees During the Coming Biennium, Appropriating Funds for Said Purposes, Providing for More Effectively Securing to Former Officers and Employees Serving with the Armed Forces the Reemployment and Other Rights Granted Them by Federal and Territorial Laws; and Amending Other Inconsistent Laws to Conform Hereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 125.01.] Section 1. **Base pay rates for general employees.** Subject to the increase hereinafter provided for, the base pay rates, classes and grades prescribed by Hawaii Defense Act Rule No. 88, as amended, are hereby continued in effect until otherwise provided by law; each of said base pay rates is hereby permanently increased as of July 1, 1945, by the amount of \$20.00 per month or \$240.00 per year. The base pay rates for all other full-time officers or employees of the Territory or any county or any independent board or commission thereof, including those of the University of Hawaii, are likewise increased as of July 1, 1945, each by \$20.00 per month, over the amounts they otherwise would receive. [L. 1945, c. 263, s. 1.]

[Sec. 1758.01.] Section 2. **Base pay rates for teachers, etc.** Each rate of the "old schedule" and of the "new schedule", as said terms are defined by section 1758 of the Revised Laws of Hawaii 1945, is hereby permanently increased, as of July 1, 1945, by the amount of \$32.00 per month. [L. 1945, c. 263, s. 2.]

[Sec. 125.02.] Section 3. **Rules for benefit of returning servicemen, and other similar personnel.** The civil service commission (personnel classification board) of the Territory, with the approval of the governor, shall adopt rules, which shall be uniformly effective as to all the public services of the Territory or any county or any independent board or commission thereof notwithstanding any other laws to the contrary enacted before the effective date of this section, and which shall:

(a) effectuate as fully and promptly as practicable the rights of reemployment and other benefits provided for by law for former employees (which term wherever used in this Act includes officers) of the Territory or any county or any independent board or commission thereof who left or shall leave such former position in order to perform active service with the armed forces of the United States or other equivalent service entitling them to similar benefits; (b) provide, as far as practicable, for affording to any such returned former employee the benefits of any reclassification of his former position; (c) if necessary in order to provide reemployment for any such former employee where his former position has been abolished, or it is otherwise impossible or impracticable to award his former position to him, and as far as practicable without substantial detriment to the public service and in any event to the extent required by applicable federal or territorial laws and regulations, provide for the discharge or transfer of any other public employee from his position and the appointment of such former employee to such position. Any such rules may be combined with other rules promulgated under chapters 2 and 3 of said Revised Laws, or any of them. [L. 1945, c. 263, s. 3.]

[Note: See Act 184, A-14; Act 114, A-15, re re-employment.]

Section 4. Chapter 127 of said Revised Laws is hereby amended:

1. By amending section 6550 thereof (in order to make permanent the rates prescribed in the present subsection (1) thereof) in the following respects:

(a) By deleting the words "(1) Until June 30, 1945:", in the second line of said section.

(b) By deleting all of subsection (2) of said section.

2. By substituting for the words "Until June 30, 1945: the" in the first line of section 6551 thereof, the word "The".

3. By amending section 6552 thereof (in order to make permanent the rates prescribed in the present subsection (1) thereof) in the following respects:

(a) By deleting the words "(1) Until June 30, 1945:", in the second line of said section.

(b) By deleting all of subsection (2) of said section.

4. By amending section 6553 thereof by substituting for the words "Until June 30, 1945: years", in the first line thereof, the word "Years".

5. By repealing section 6555 thereof.

[Sec. 125.03.] Section 5. **Bonus.** 1. Subject to the additional provisions of this section and of section 6, the bonus provided for government employees (including officers) by

Hawaii Defense Act Rules Nos. 88, 107, 113 and 114 shall be continued in effect upon the terms and conditions set forth in said Hawaii Defense Act Rules, for the period from July 1, 1945, to June 30, 1947; **provided**, however, that: (1) teachers and others whose base pay is determined in whole or in part by the "old schedule", or the "new schedule", as defined in section 1758 of said Revised Laws, shall be paid a bonus of \$45.00 per month for full time; (2) the bonus for all district magistrates shall be \$45.00 per month; (3) members of the police and fire departments of the city and county of Honolulu shall receive a bonus of \$45.00 per month; (4) all other employees, including those of the University of Hawaii shall receive a bonus of \$45.00 per month for full time.

2. It is **provided**, however, that in the event the governor shall at any time determine, from the best available estimates, that the finances of the Territory are or will be insufficient to cover the full amount of the base pay increases and bonus authorized by this Act, then, to the extent necessary in his judgment to bring such expenditures within the estimated available revenues of the Territory, he may, by executive order duly promulgated, effect a uniform percentage reduction of all bonuses prescribed by this Act, applicable alike to all employees covered by this Act. In the event any such reduction is effected, the governor thereafter, whenever in his judgment the finances of the Territory will permit, may by similar executive order, effect a similar uniform increase in all such bonuses. Such decreases or increases may be made successively and from time to time, as required; **provided** that no bonuses shall be increased beyond the amounts originally authorized by this Act.

3. For the purpose of carrying out the requirements of this Act, the following amounts are hereby appropriated out of the general revenues of the Territory for the period from July 1, 1945, to June 30, 1947:

(a) For bonus payments and base pay increases for employees of the Territory or of territorial agencies, to be allocated by the director of the bureau of the budget, to the respective departments and agencies from time to time as required, the sum of \$12,436,296.

(b) For bonus payments and base pay increases for employees of the city and county of Honolulu, the county of Hawaii, the county of Maui, and the county of Kauai, the following sums, namely:

| | |
|-----------------------------------|--------------|
| City and county of Honolulu | \$ 4,365,360 |
| County of Hawaii | 1,485,120 |
| County of Maui | 829,920 |
| County of Kauai | 725,400. |

4. Except as hereinafter otherwise provided, each of said counties shall be reimbursed monthly for the bonus payments made, and for the pay increases of \$20.00 per month paid, by it for services performed by its employees during the previous month. The auditor of each county shall send monthly to the auditor of the Territory a certified statement showing the actual total of said payments made by it for such previous month, and the territorial auditor shall issue a warrant in payment thereof which shall be paid by the territorial treasurer to the county entitled thereto; provided, that only such portion, if any, of said bonus payments and payments of said \$20.00 per month base pay increases, shall be paid to each county, as shall be found by the governor (who may delegate such duty to the director of the bureau of the budget) to be necessary in order to enable the county adequately to finance its necessary county functions in the light of all of its available funds.

5. It is provided, however, that transfers may be made by the director of the bureau of the budget with the approval of the governor to supplement any insufficient territorial or county item of appropriation hereinabove made, from any other of such items which may be found to exceed the requirements for such item, to the extent of such excess. [L. 1945, c. 263, s. 5.]

[For other bonus laws see index, topic "Appropriations."]

[Sec. 125.04.] Section 6. For the purpose of more fully effectuating the provisions of this Act, the provisions of said Hawaii Defense Act Rules not obviously inapplicable and not inconsistent with this Act, are continued in effect after June 30, 1945, notwithstanding any provisions therein to the contrary.

Notwithstanding any provision of this Act to the contrary, the total compensation, including increments and bonus, for any position covered by this Act, shall not be reduced by this Act below the total payable under laws and regulations existing prior to the effective date of this Act, except pursuant to a uniform bonus reduction by the governor as aforesaid.

All laws or parts of laws inconsistent with this Act, except chapter 324 of said Revised Laws, are hereby amended to conform to this Act. Any special appropriation for any specific position (including office) made in the general appropriation act for the biennium 1945 to 1947 shall not be deemed to affect the compensation for such position fixed under any classification or other salary schedule prescribed by this Act and applicable to such position, nor shall it be construed to prevent payment of any higher rate of compensation which may be determined by or pursuant to this Act for such position, but transfers may be made to insufficient appropriations for said purposes in the

manner provided by law, notwithstanding any provision of said appropriation act to the contrary; **provided**, that if, under said general appropriation act, the compensation for any such position not subject to any of said schedules shall have been increased as of July 1, 1945, over the amount payable as of June 30, 1945, then no increase in the base pay for such position shall be granted under section 1 of this Act, except such amount, if any, as shall be necessary to provide a total base pay increase over the June 30 base pay rate of \$20.00 per month. [L. 1945, c. 263, s. 6.]

[See Act 184, A-14 and Act 114, A-15, post.]

Section 7. This Act shall take effect upon its approval.
(Approved May 22, 1945.) S.B. 380, Act 263.

Chapter 6. ELECTIONS: GENERAL.

Series A-5: ACT 244

An Act to Amend Chapter 6 of the Revised Laws of Hawaii 1945, Relating to Elections, by Amending Sections 195 and 197 Thereof Relating to Inspectors and Clerks; and Making an Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 195 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the word "three" in the first line thereof the words "not less than three nor more than five".

Note: As so amended, § 195 reads:

"Sec. 195. Number, appointment, vacancies. There shall be not less than three nor more than five inspectors of election for each precinct. They shall be appointed by the governor, as far as reasonably practicable, from the opposing parties, and shall be registered voters of the precinct in which they serve.

In case of inability, failure or refusal of any person so appointed to act as such inspector, the governor shall, so far as reasonably practicable, appoint a person to fill such vacancy from the same party that such person so failing to act belonged to; **provided**, however, that if it is impossible to communicate with the governor in time for him to make such appointment before the election is held, the remaining inspector or inspectors shall appoint a person or persons to fill such vacancy; and **provided**, that no officer or employee of the Territory or any county, excepting employees who are on a part-time or per diem basis, shall be appointed to serve as an inspector of election. This proviso shall not apply to the county of Kalawao. [C. L. p. 809, s. 70; am. Org. Act, s. 64; R. L. 1935, s. 7664; am. L. 1943, c. 129, s. 1; R. L. 1945, s. 195; am. L. 1945, c. 244, s. 1.]"

[See Org. Act, § 80.]

Section 2. Section 197 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 197. Clerk. The board of election inspectors of precincts of more than three hundred registered voters shall be authorized and empowered to employ clerks to assist in the work of the board, as follows:

In precincts of more than three hundred, but not more than five hundred, registered voters, one clerk;

In precincts of more than five hundred, but not more than eight hundred, registered voters, two clerks;

In precincts of more than eight hundred registered voters, three clerks.

Every clerk shall be a registered voter of the precinct in which he serves and shall be paid, out of such appropriations as may be made by the legislature for election purposes, in the case of territorial elections, and out of such appropriations as may be made by the board of supervisors, in the case of county elections, the sum of twenty dollars for each election." [L. 1923, c. 29, s. 1; R. L. 1935, s. 7666; am. L. 1943, c. 128, s. 1; R. L. 1945, s. 197; am. L. 1945, c. 81 and c. 244, s. 2.]

[Sec. 197, amended by Act 81, A-6, but covered by above.]

Section 3. There is hereby appropriated for the biennial period ending June 30, 1947, out of the general fund of the Territory the sum of seventeen thousand ninety dollars (\$17,090), to supplement the appropriation made by the general appropriation Act for said biennial period, for the department of the secretary of Hawaii for expenses of elections, under the item designated "A. Personal Services", and to be subject to the provisions of said general appropriation Act.

Section 4. Sections 1 and 2 of this Act shall take effect upon approval. Section 3 of this Act shall take effect July 1, 1945.

(Approved May 19, 1945.) **H.B. 383, Act 244.**

Series A-6: ACT 81

An Act Relating to the Pay of Election Officers, and Amending Sections 197 and 247 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 197 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the words "fifteen dollars" in the tenth line thereof, the words "twenty dollars".

[Note: § 197 was amended in toto by Act 244, A-5, s. 2, ante, including the above amendment.]

AM. '49

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Section 2. Section 247 of the Revised Laws of Hawaii 1945 is hereby amended in the following particulars:

(1) By substituting for the words "seven dollars" in the third line thereof, the words "twelve dollars".

(2) By substituting for the words "ten dollars" in the sixth line thereof, the words "fifteen dollars".

(3) By substituting for the words "fifteen dollars" in the eighth line thereof, the words "twenty dollars".

(4) By substituting for the words "twenty dollars" in the ninth line thereof, the words "twenty-five dollars".

Section 3. This Act shall take effect upon its approval.

(Approved May 3, 1945.) S.B. 78, Act 81.

Note: As so amended, § 247 reads:

"Sec. 247. **Expenses.** The treasurer of the Territory shall pay out of such appropriations as may be made by the legislature for election purposes to the members of the board of registration twelve dollars a day of not less than six hours, for each day of actual service, which shall include traveling expenses; and to the inspectors of election, other than chairman in precincts of not more than two hundred registered voters, the sum of fifteen dollars each, in precincts of more than two hundred and not more than four hundred registered voters, the sum of twenty dollars each, in precincts of more than four hundred registered voters, the sum of twenty-five dollars each, and to the chairman of each board of inspectors a sum equal to five dollars more than the amount herein provided for each of the other members of such board, for each election held; and shall also pay the necessary expenses of preparing the polls and holding the election, which expenses shall be regulated and limited by the treasurer and shall not include the cost of refreshments. [C. L. p. 824, s. 115; am. Org. Act, s. 64; am. L. 1919, c. 17, s. 1; am. L. 1921, c. 6, s. 1; R. L. 1925, s. 134; am. L. 1931, c. 72, s. 1; R. L. 1935, s. 7710; R. L. 1945, s. 247; am. L. 1945, c. 81, s. 2.]"

Series A-7: ACT 99

An Act to Amend Section 227 of the Revised Laws of Hawaii 1945, Relating to Absentee Voters.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 227 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first paragraph thereof to read as follows:

"Sec. 227. **Absentee voters, generally.** Any registered voter who will be absent from the county in which he is duly registered upon any primary, general or special election date may, within the period of five days next preceding any primary, general or

special election, cast his ballot with the county clerk where he is registered. Any registered voter in the County of Maui who will be absent from the island on which he is duly registered upon such election date may, within said period of five days, cast his ballot with the clerk of said county; **provided, however,** that such a voter registered in the districts of Molokai or Lanai may cast his ballot with the district magistrate of Molokai or the district magistrate of Lanai, as the case may be. The ballots of such voters shall be cast in the following manner:"

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) **H.B. 715, Act 99.**

Note: The rest of § 227 reads:

"The county clerk (or, in the case of duly registered voters of the district of Molokai or of the island of Lanai as aforesaid, the district magistrate of Molokai or the district magistrate of Lanai, as the case may be) shall, upon affidavit duly signed by such duly registered voters about to depart setting forth facts entitling him so to vote pursuant to the foregoing paragraph, place in an envelope a ballot folded so as to conceal the names of the candidates thereon. The voter shall thereupon, in the usual manner provided by law, and in a place apart from any person, mark his ballot, place it in the envelope, seal the same, and sign his name thereon as proof that he has voted and deliver the envelope to the county clerk (or district magistrate, as the case may be) who shall, at the time he delivers the ballots to the inspectors of election of the precinct where the voter is registered, and in any event on the day of election and before balloting has ceased, deliver the envelope to the inspectors.

In case such voter suffers the disabilities specified in section 225, then the county clerk or district magistrate, as the case may be, shall assist such voter in the marking of the ballot and the writing of his name upon the envelope and shall place upon the envelope a notation thereof. [L. 1923, c. 263, ss. 1, 4; R. L. 1925, s. 119; pt. of R. L. 1935, s. 7695; am. L. 1937, c. 99, ss. 1-3; R. L. 1945, s. 227; am. L. 1945, c. 99, s. 1.]"

Chapter 8. EMINENT DOMAIN.

Series A-8: ACT 185

An Act Amending Chapter 8, Revised Laws of Hawaii 1945, Pertaining to the Taking of Property by Eminent Domain.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 301 of the Revised Laws of Hawaii 1945 is hereby amended by changing the period at the end of said section to a semi-colon, and by adding at the end thereof the following:

"and also to take such excess over that needed for such public use or public improvement in cases where small remnants would otherwise be left or where other justifiable cause necessitates such taking to protect and preserve the contemplated improvement or public policy demands such taking in connection with such improvement, and to sell or lease such excess property with such restrictions as may be dictated by considerations of public policy in order to protect and preserve such improvement. All moneys received from the sale or lease of such excess property shall be paid into the fund or appropriation from which they were taken for the original condemnation and shall be available for the purposes of such fund or appropriation."

[L. 1896, c. 45, s. 1; am. L. 1909, c. 10, s. 1; R. L. 1925, s. 808; am. L. 1925, c. 59, s. 1; R. L. 1935, s. 50; am. L. 1941, c. 149, s. 1; R. L. 1945, s. 301; am. L. 1945, c. 185, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 96, Act 185.

Note: The preceding portion of § 301, to which the above amendment is added, reads:

"Sec. 301. **Purposes for taking private property.** Private property may be taken for the following purposes, which are declared to be public uses, to wit: sites for public buildings, schools and school recreation grounds, fortifications, magazines, arsenals, navy yards, navy and army stations, lighthouses, range and beacon lights, cemeteries, quarantine stations, pest-houses, hospitals, dumping places for garbage and refuse material, wharves, docks, piers, dams, reservoirs and bridges, also all necessary land over which to construct roads, canals, ditches, flumes, aqueducts, pipe lines and sewers; also all necessary land for the growth and protection of forests, public squares and pleasure grounds; also all necessary land for improving any harbor, river, or stream, removing obstructions therefrom, widening, deepening or straightening their channels; also all necessary land from which to obtain earth, gravel, stones, trees, timber, and all necessary material for the construction of any public work; also all land and property and interests therein necessary to be acquired for the establishment and maintenance of landing fields and hangars, and landing harbors for airships including every kind of vehicle or structure intended for use as a means of transporting passengers, goods or materials in and through the air; also all land and property and interests therein necessary to be acquired for sites for triangulation stations and for rights of way for access thereto by agents and employees of the Territory and by registered land surveyors and their surveying assistants;"

[See R. L. 1945, cc. 61-63, **Housing**; ss. 2716 ff., **insanitary lands**; c. 119, **counties**; railways, c. 92; c. 10, **federal aid**; c. 87A, **airport zoning**; cc. 120, 129, **highways**; c. 130, **parks**; c. 132, **water supply**; Org. Act, s. 55, **public purposes**, etc.]

Series A-9: ACT 147

An Act to Amend Section 352 of the Revised Laws of Hawaii 1945, Relating to Public Contracts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 352 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first paragraph thereof to read as follows:

"Sec. 352. Contracts; security; bids and conditions attending. All such contracts shall be in writing; shall be executed in the name of the Territory, county, or the board, bureau or commission thereof authorized to let contracts in its own name, as the case may be, by the officer letting the same, and shall be made with the lowest responsible bidder, if such bidder shall qualify by providing the security herein required, after publication of a call for tenders which shall be published not less than five times, no more than one of which publications being made on any one day or on two consecutive days, in a newspaper of general circulation printed and published within the Territory. The time of opening of such tenders shall be not less than five days after the last publication. The officer calling for bids may reject any or all bids and waive any defects when in his opinion such rejection or waiver will be for the best interest of the public."

Section 2. This Act shall take effect upon its approval.
(Approved May 14, 1945.) **S.B. 44, Act 147.**

[See R. L. 1945, s. 497, justification of sureties; s. 7604, supervision by professional engineer; s. 5477, excise tax. Act 173, A-88, post, federal aid roads, disturbing of; Act 166, C-150, post, building plans, approval by fire marshal.]

Chapter 11. GENERAL DEPARTMENTAL REGULATIONS.

Series A-10: ACT 95

An Act to Amend Sections 457 and 6614 of the Revised Laws of Hawaii 1945, Relating to the Receipt of Compensation by Certain Public Officers and Employees for Services as Masters to Examine Accounts of Guardians, Trustees, Executors and Administrators.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 457 of the Revised Laws of Hawaii 1945 is hereby amended by substituting a comma for the period at

the end of the second sentence of said section and adding thereafter the following:

"nor shall it apply to any officer or employee who is an attorney duly licensed to practice in all the courts of the Territory."

Note: As so amended, § 457 reads:

"Sec. 457. Certain public officers prohibited from receiving master's fees; forfeiture. No person holding any salaried office or employment in the executive or judicial branches of the government of the Territory or any county thereof, or holding any executive or judicial office or employment any part of the compensation for which is paid by the Territory or any county, shall receive, directly or indirectly, any fee or other remuneration for services rendered as master to examine, pass or report upon any account filed in any court of the Territory by any guardian, trustee, executor or administrator, and any such person receiving or accepting any such fee or remuneration shall by virtue of such acceptance be deemed to have released and forfeited all claim and right thereafter to any compensation payable by the Territory or county by virtue of said office or employment, and in addition, if he is holding an office or employment, subject to the power of the legislature of the Territory to provide for forfeiture thereof as herein provided, shall be deemed to have forfeited and been ipso facto discharged from his said office or employment; and in any event upon acceptance of any such fee or remuneration the auditor of the Territory or any county is hereby prohibited from issuing any warrant to such person except for services rendered prior to such forfeiture. This section shall not apply to officers whose only compensation from the government is paid pursuant to any territorial statute upon a per diem basis or upon a fee basis, or to officers or employees appointed or employed by contract to render a temporary professional service, nor shall it apply to any officer or employee who is an attorney duly licensed to practice in all the courts of the Territory. Traveling or other expenses paid or payable by the Territory or any county to any officer or employee shall not be deemed to be compensation. [L. 1939, c. 13, s. 1; am. L. 1941, c. 23, s. 1; R. L. 1945, s. 457; am. L. 1945, c. 95, s. 1.]"

Section 2. Section 6614 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the words "including masterships" on the sixth line thereof and by substituting a comma for the period at the end of said section and adding thereafter the following:

"provided, however, that the city and county attorney and his deputies and the public prosecutor and his assistants shall be entitled to accept fees or other compensation in connection with masterships."

Section 3. This Act shall take effect upon its approval.
(Approved May 7, 1945.) S.B. 93, Act 95.

Note: As so amended, § 6614 reads:

"Sec. 6614. Private practice by city and county attorney and deputies, public prosecutor and assistants, prohibited. The city and county attorney

and his deputies, and the public prosecutor and his assistants, shall devote their entire time and attention to the duties of their respective offices. They shall not engage in the private practice of law, nor accept any fees or emoluments other than their official salaries for any legal services performed by them; **provided**, however, that the city and county attorney and his deputies and the public prosecutor and his assistants shall be entitled to accept fees or other compensation in connection with masterships. [L. 1939, c. 242, s. 4 (65); R. L. 1945, s. 6614; am. L. 1945, c. 95, s. 2.]”

Series A-11: ACT 248

AM. '49

An Act to Amend Section 458 of the Revised

Sr A-12 A34

Laws of Hawaii 1945, Relating to Costs and Fees for
Copies of Public Documents.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 458 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

“Sec. 458. **Copies of public records; costs and fees.** Except as otherwise provided by law, a copy of any public document or record, including any map, plan, diagram or photostat, which is open to the inspection of the public, shall be furnished to any person applying for the same by the public officer having charge or control thereof upon the payment of the following:

1. Sixty cents for every hundred words or fraction thereof contained in any written document, record, entry or other paper, when such copy is made or caused to be made in writing or when typewritten or the like by the public officer having charge or control thereof;

2. Seventy-five cents per page or fraction thereof for reproducing any written document, record, entry or other paper when such copy is made or caused to be made by the public officer having charge or control thereof by the use of any photostat, or other similar means of reproduction;

3. Seventy-five cents per page or sheet for making a copy of any map, plan, diagram or photograph, which copy may be made by any method of reproduction;

4. Five cents for every hundred words or fraction thereof for comparing any copy of a written document, record, entry or other paper with the original thereof, when such comparison is required or requested;

5. Twenty-five cents for the certification to any copy, when such certification is required or requested;

6. All such fees shall be paid in by the public officer receiving or collecting the same to the treasurer of the Territory or county by which the officer is employed as government realizations; **provided**, however, that no fees shall be charged for the certification of copies of any pleadings, order or other paper or document filed in any court, or process thereon, or any transcript of testimony, upon the original filing or issuance thereof, nor for the certification of records on appeal in any proceeding in any court." [L. 1921, c. 96, s. 1; R. L. 1925, s. 166; am. L. 1929, c. 166, s. 1; am. L. 1931, c. 178, s. 1; R. L. 1945, s. 458; am. L. 1945, c. 248, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved May 19, 1945.) H.B. 579, Act 248.

[See § 460.01, Act 26, A-12; also Act 17, D-169, facsimile copies. Also, R. L. 1945, s. 9890, archives fees; 12728, bureau of conveyances; s. 29, printed publications.]

Series A-12: ACT 26

An Act to Amend Chapter 11 of the Revised Laws of Hawaii 1945 by Adding Thereto a New Section Providing for the Reproduction of Records and Destruction of Originals.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 11 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section, to be designated section 460.01, to read as follows:

"Sec. 460.01. Reproduction of public records on films and disposition thereof. Any public officer having the care and custody of any record, paper or document may cause the same to be photographed, microphotographed or otherwise reproduced on film. Such film shall be of durable material and the device used to reproduce such record, paper or document on such film shall be one which accurately reproduces the original thereof in all details.

Such photograph, microphotograph or photographic film shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification, facsimile or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification, facsimile or certified copy of the original record.

Such photograph, microphotograph or reproduction on film shall be placed in conveniently accessible files and provisions made for preserving, examining and using the same. Thereafter, such public officer, after having first received the written approval of the board of commissioners of public archives, may cause such record, paper or document to be destroyed. The board of commissioners of public archives shall have the power to require, as a prerequisite to the granting of such approval, that a reproduction or print of such photograph, microphotograph or reproduction on film, be delivered into its custody for safekeeping. Said board shall also have the power to require the delivery into the custody of another governmental department or agency or a research library of any such record, paper or document proposed to be destroyed under the provisions of this section.' [L. 1945, c. 26, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1945.) H.B. 249, Act 26.

Series A-13: ACT 205

An Act to Amend Section 484 of the Revised Laws of Hawaii 1945, Relating to Form of Bonds of Public Officers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 484 of the Revised Laws of Hawaii 1945 is hereby amended as follows:

a. By inserting immediately after the word "over" in line twenty-five, the words "and deliver".

b. By inserting immediately after the word "moneys" in line twenty-six, the words "and property".

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 384, Act 205.

Note: As so amended, the condition of the bond, under § 484, reads:

"NOW THEREFORE, if the said (name of officer, appointee, or employee) shall faithfully perform all the duties of his office, appointment, position or employment which are now or may hereafter be required, prescribed or defined by law or by any departmental rule or regulation made under the express or implied authority of any statute, or by any order, direction or command of the head of the department, bureau, office or service in which said obligor is engaged or employed, and all duties and acts undertaken, assumed or performed by said obligor by virtue or color of his office, appointment, employment or position, and shall safely keep, promptly pay over and deliver to those legally entitled thereto, and faithfully account for all moneys and property which may come into his

possession or control by reason of his undertaking, assuming, performing or doing any of the aforesaid duties or acts, then this obligation shall be void; otherwise it shall be and remain in full force and virtue and may be enforced in any manner or by any proceedings authorized by law.

(Signatures)"

[See R. L. 1945, s. 497, justification of sureties; s. 12369, women as sureties.]

Chapter 12. LEAVES OF ABSENCE; VACATIONS.

Series A-14: ACT 184

An Act to Amend Section 556 of the Revised Laws of Hawaii 1945, Relating to Reemployment of Officers and Employees of the Territory or Its Political Subdivisions Upon Termination of Their Service with the Armed Forces of the United States.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 556 of the Revised Laws of Hawaii 1945 is hereby amended by substituting a semi-colon for the period at the end of said section and adding thereafter the following:

"provided, however, that, any other law to the contrary notwithstanding, upon reemployment he shall be placed in the same grade or salary step or increment as if he had been continuously employed in such position and had maintained the requisite standard of efficiency." [L. 1941, c. 160, s. 1; R. L. 1945, s. 556; am. L. 1945, c. 184, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 18, Act 184.

Note: The preceding portion of § 556, to which the above is added, reads:

"Sec. 556. Reemployment upon termination of military service. Every officer or employee in the employment of the Territory or any county thereof who, in order to perform active service and duty with the armed forces of the United States, has left or leaves his position (other than a temporary position) with the Territory or county, and who (1) receives a certificate under section 8 of the Selective Training and Service Act of 1940 or under section 3 of Public Resolution No. 96, 76th Congress, approved August 27, 1940 or any federal law heretofore or hereafter enacted, (2) is still qualified to perform the duties of such position, and (3) makes application for reemployment within 40 days after he is relieved from such training and service, shall be restored to such position or to a position of like seniority, status, and prevailing pay. Such officer or employee shall be considered as having been on furlough or leave of absence during his period of absence;"

[See also Act 114, A-15, immediately following; and Act 263, A-4, ante.]

Series A-15: ACT 114

REP. '49

Sr. A-20 A-370

An Act Relating to the Status of Certain Government Officers and Employees Released on Leave Without Pay for Civilian Service with the Armed Forces.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 556.01.] Section 1. [Status on re-employment of persons on leave for civilian service in armed forces.] Government officers and employees of the Territory or its political subdivisions released on leave without pay for the purpose of serving in a civilian capacity with the armed forces, where such service and the conditions thereof shall be certified by the War Department or the Navy Department of the United States, or the accredited representatives of such department in the Territory authorized so to do, to have been equivalent in their judgment to service in the armed forces (as, for example, in the military or naval intelligence departments), shall be, and are, granted the same rights and privileges relative to their employment or reemployment, their salaries and increments, and their status in the employees' retirement system, as has been granted, or may in the future be granted, to officers and employees of the Territory or its political subdivisions serving with the armed forces. [L. 1945, c. 114, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) S.B. 173, Act 114.

[Note: Compare with Act 263, A-4, s. 125.02.]

Series A-16: ACT 176

REP. '49

Sr. A-20 A-370

An Act Providing Cash Payments in Lieu of Leave with Pay During the Emergency Period.

Be it Enacted by the Legislature of the Territory of Hawaii:

[CASH IN LIEU OF LEAVE.]

Section 1. Where, during the emergency period defined by section 559 of the Revised Laws of Hawaii 1945, a public employee becomes, or has heretofore become, entitled to, but cannot because of the emergency, enjoy leave with pay, then, upon certification as required by said section 559, he shall have cash in lieu of such leave with pay, in the same manner as is provided in respect of vacations by such section. [L. 1945, c. 176, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 15, 1945.) S.B. 87, Act 176.

Chapter 13. LOYALTY LAW.

Series A-17: ACT 131

AM. '49
A-21 A.137

An Act to Amend Chapter 13 of the Revised
Laws of Hawaii 1945, Relating to Oaths of Loyalty.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 600** of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto at the end thereof the following new paragraph:

"The head of any department of the government of the Territory or of any county, or the governing authority of any independent board or commission established under territorial law, shall have power to designate in writing one or more officers or employees in or under such department, board or commission, including such department head or any number of such board or commission, to administer such oaths or affirmations, and upon the filing of such written designation with the civil service commission or other authority charged with the administration of chapter 2 with respect to employees of such department, the officers or employees so designated shall have the same powers to administer such oaths or affirmations as are possessed by notaries public." [L. 1941, c. 128, s. 1; am. L. Sp. 1941, c. 60, ss. 1, 3; R. L. 1945, s. 600; am. L. 1945, c. 131, s. 1.]

Section 2. Section 615 of said Revised Laws is hereby amended to read as follows:

"**Sec. 615. Duplicate taking of oath, not required when.** No officer or employee continued in employment or appointed to or employed in another office or position or reappointed to succeed himself in any office or position, except where such new office or position involves a change of residence from one county to another, shall be required to renew said oath or affirmation if he took said oath or made said affirmation on original appointment or employment." [L. Sp. 1941, c. 60, s. 9; am. L. 1943, c. 132, s. 1; am. L. 1945, c. 131, s. 1.]

Section 3. This Act shall take effect upon its approval.

(Approved May 10, 1945.) **H.B. 359, Act 131.**

Chapter 14. PENSIONS: GENERAL PROVISIONS.

Series A-18: ACT 218

An Act Creating a Retirement and Pension Commission, Prescribing Its Duties, and Making an Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 635.01.] Section 1. [**Territorial Retirement and Pension Commission.**] There is hereby created a commission to be known as the Territorial Retirement and Pension Commission, consisting of three members who shall be appointed by the governor in the manner prescribed by section 80 of the Organic Act and shall hold office for four years or until their successors are appointed and qualified. Public officers and employees shall be eligible to serve as members of said commission. The governor shall designate one of the members of the commission as chairman thereof. [L. 1945, c. 218, s. 1.]

[Sec. 635.02.] Section 2. [**Expenses.**] The members of the commission shall serve without pay, but they and their stenographic, clerical and professional assistants shall be entitled to their reasonable and necessary traveling expenses incurred in the discharge of their duties and, when required to travel from any island to another island in the Territory in the performance of such duties, shall be allowed, in addition to transportation fares, ten dollars a day to cover all other expenses. [L. 1945, c. 218, s. 2.]

[Sec. 635.03.] Section 3. [**Employees and assistants.**] The commission shall engage, by employment or by contract, such stenographic, clerical and professional assistance as may be necessary or advisable for the proper performance of the duties herein committed to such commission. Such employees and assistants shall not be subject to the civil service or classification laws of said Territory, nor be included in any retirement system.

The commission with the approval of the governor shall be entitled to call upon all territorial and county officials for such assistance as is needed and may hold public meetings in each of the counties, after duly published notice thereof, whenever deemed desirable or necessary. [L. 1945, c. 218, s. 3.]

[Sec. 635.04.] Section 4. [**Duties.**] It shall be the duty of said commission to collect and collate information concerning the operation of all territorial and county retirement or pension systems, and of specific pensions, to investigate and study methods of integrating all of said systems and said pensions into one

system to be operated by said Territory upon a sound actuarial basis with general classifications of present, former, and future employees and officers of the Territory and counties, and to prepare and recommend such legislative measures as may be deemed advisable or necessary to effectuate the conclusions reached as the result of its studies and investigations. [L. 1945, c. 218, s. 4.]

Section 5. [Appropriation.] There is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, the sum of fifty thousand dollars, or so much thereof as may be necessary, for the purposes of this Act. Said amount shall be expended upon vouchers approved by the chairman of said commission.

Section 6. This Act shall take effect upon approval.

(Approved May 17, 1945.) S.B. 311, Act 218.

[Note: for specific pensions this session see Index; also Appendix Note 9: E-222 to E-229, post.]

Chapter 15. RETIREMENT SYSTEM.

Series A-19: ACT 73

An Act Relating to the Employees' Retirement System of the Territory, Amending Chapter 15 of the Revised Laws of Hawaii 1945, Authorizing and Directing the Board of Trustees of the System in Regard to the Administration of the Amendments Thereto and Making Appropriations for Such Purposes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 15 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(a) By amending the definitions of the terms "county", "creditable service", "membership service" and "prior service" contained in section 701 thereof and adding thereto a definition of the term "prior service certificate", as follows:

"County": includes city and county and the board of water supply, city and county of Honolulu.

"Creditable service": prior service plus membership service.

"Membership service": service for which credit is provided for by section 704, subsections 3 and 5.

"Prior service": service for which credit is provided for by section 704, subsection 2.

"Prior service certificate": certificate certifying the length of prior service of a member, including a membership certificate

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issued under the provisions of section 705 which contains a statement of the length of prior service.

(b) By amending subsections 1, 2 and 4 of section 703 thereof to read as follows:

"1. Except as otherwise provided in this section, all employees of the Territory or any county on July 1, 1945, shall be members of the system on such date, and all persons who shall thereafter enter or re-enter the service of the Territory or any county shall become members at the time of their entry or re-entry. No member shall receive any pension or retirement allowance from any other pension or retirement system supported wholly or in part by the Territory or any county.

2. An employee whose membership in the system was contingent in his own election and who elected not to become a member shall apply for and be admitted to membership before April 1, 1946.

4. Should any member withdraw his accumulated contributions, or should he become a beneficiary or die, he shall thereupon cease to be a member."

Note: As so amended, § 703 reads:

"Sec. 703. Membership. 1. Except as otherwise provided in this section, all employees of the Territory or any county on July 1, 1945, shall be members of the system on such date, and all persons who shall thereafter enter or re-enter the service of the Territory or any county shall become members at the time of their entry or re-entry. No member shall receive any pension or retirement allowance from any other pension or retirement system supported wholly or in part by the Territory or any county.

2. An employee whose membership in the system was contingent in his own election and who elected not to become a member shall apply for and be admitted to membership before April 1, 1946.

3. The board may deny the right to become members to any class of elected officials or to any class of part time employees, or it may, in its discretion, make optional with persons in any such classes their individual entrance into membership; provided, that no officer or employee entering service after January 1, 1928, who is entitled to become a member of any pension fund under the provisions of chapter 121, part I, shall be entitled to become a member of the system.

4. Should any member withdraw his accumulated contributions, or should he become a beneficiary or die, he shall thereupon cease to be a member.

5. It shall be the duty of the head of each department of the territorial government and of the payroll officers or similar officials of each county to submit to the board a statement showing the name, title, compensation, duties, date of birth and length of service of each member and such information regarding other employees as the board may require. The board shall classify each member in one of the following groups:

Group 1. General employees, including administrative, clerical, professional and technical workers; mechanics, laborers and all others not otherwise classified.

Group 2. Teachers, including all teachers regularly engaged in the public schools whose salaries are wholly or partly paid by the Territory.

Or in any other group of not less than two hundred fifty members which may be recommended by the actuary on the basis of the service and mortality experience and approved by the board, to cover part of any group or groups previously created or any additional classes of employees. [L. 1925, c. 55, s. 3; am. L. 1927, c. 223, s. 1; am. imp. L. 1927, c. 251, ss. 1, 2, 3, 5; am. imp. L. 1929, c. 190, s. 1; R. L. 1935, s. 7922; R. L. 1945, s. 703; am. L. 1945, c. 73, s. 1. (b).]

(c) By amending section 704 thereof to read as follows:

"Sec. 704. Service creditable. 1. Under such rules and regulations as the board may adopt and subject to such exceptions as the board may provide, each employee who on July 1, 1945, is, or thereafter shall become, a member shall file a detailed statement of all service as an employee rendered by him prior to the filing thereof for which he claims credit. Service credit may be claimed for membership service and prior service, or membership service only.

2. Prior service shall include (a) service as an employee rendered (1) by an employee of the Territory prior to January 1, 1926, or (2) by an employee of any county prior to January 1, 1928, (b) service in a similar capacity paid for by the Republic of Hawaii or by the preceding provisional or monarchical governments, (c) all service creditable to him under any other retirement system supported wholly or in part by the Territory at the time he became a member of this system, (d) periods of honorable service in the army, navy, marine corps, coast guard and public health service of the United States at any time between the dates of April 5, 1917, and July 2, 1920, which service necessitated separation at the time of its inception from existing territorial or county employment, and (e) service as an employee during the period from January 1, 1926, to December 31, 1927, in the case of a member who became an employee of the Territory during said period, was in the regular employ of any county immediately prior and up to the time he became a territorial employee and was an employee of the Territory on January 1, 1928.

3. Membership service shall include (a) service as an employee rendered since becoming a member and (b) service rendered prior to becoming a member but (1) subsequent to January 1, 1926, by an employee of the Territory or (2) subsequent to January 1, 1928, by an employee of any county; provided, however, that service credited or creditable as prior service shall not be included; and provided, further, that membership service shall not be credited for any period which is not covered by the contributions of the member to the annuity savings fund as provided by section 712, except as otherwise provided in subsection 5 of this section.

4. The board shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to a year of service but in no case shall more than one year of service be credited for all service in one calendar year, nor shall the board allow credit as service for any period of more than one month's duration during which the employee was absent without pay.

5. Subject to the above restrictions and to such other rules and regulations as it may adopt, the board shall verify, as soon as practicable after the filing of such statements of service, the service therein claimed. If membership service shall be claimed in such statement for service by a member rendered prior to his becoming a member, or in the case of a member who was separated from service after having become a member, rendered prior to his last entry into service, the board shall cause to be determined (a) the amount which should be in the annuity savings fund to the credit of the individual account of the member on the date of such statement to cover the period or periods of service claimed as membership service, excluding interest for any period during which he was separated from service, (b) the amount of accumulated contributions actually to his credit on such date, and (c) the difference between the two amounts, and shall thereupon credit him with membership service for such period or periods of service on condition that he make payment of the amount of the deficiency in his accumulated contributions. Upon the payment of such deficiency, in a lump sum or in installments in such amounts and on such terms as the board may provide, such service shall constitute creditable membership service at retirement or death; **provided**, however, that if such deficiency is not paid up in full at the time of retirement or death, credit shall be allowed in the same proportion that the amount paid-in bears to the amount payable on account of such deficiency.

6. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of his membership service and his prior service, if any, as provided in this section." [L. 1925, c. 55, s. 4; am. L. 1927, c. 223, s. 2; am. imp. L. 1927, c. 251, ss. 1, 2; am. imp. L. 1929, c. 190, s. 1; am. imp. L. 1931, c. 219, ss. 1, 2, 3; R. L. 1935, s. 7923; am. L. 1935, c. 48, s. 6; L. 1937, c. 235, s. 1; R. L. 1945, s. 704; am. L. 1945, c. 73, s. 1(c).]

(d) By amending section 705 thereof to read as follows:

"Sec. 705. Membership certificate. 1. Upon verification of the statement of service filed in accordance with the provisions of section 704, the board shall issue a membership certificate which shall consist of (a) a statement of the length of (1) prior

service and (2) membership service rendered prior to the date thereof by the member to whom it is issued and (b) a certificate of participation as evidence of his contract with the system, and of his right in the reserves created and held by the trustees as a result of his own contribution and the contribution of his employer, on his account, which reserves and the interest thereon, shall only become payable to him to the extent and under the conditions set forth in this chapter at the time such certificate is issued. So long as membership continues such membership certificate shall be final and conclusive for retirement purposes as to such service; **provided**, however, that any member may, within one year from the date of issuance, request the board to modify or correct the same. When membership ceases such membership certificate shall become void; **provided**, however, that upon his re-entry into the system, the statement as to his prior service contained in such membership certificate shall be deemed conclusive and the length of prior service therein contained shall be inserted in his new membership certificate.

2. Any prior service certificate or membership certificate issued prior to July 1, 1945 and in full force and effect on such date shall remain in full force and effect, subject, however, to the provisions and conditions thereof and to the provisions and conditions set forth in this chapter as it existed at the time such certificate was issued; **provided**, further, that the board, in its discretion, may replace any such certificates by requiring the surrender thereof and issuing in place thereof membership certificates as provided for by subsection 1 of this section; **provided**, further, that upon the issuance of a membership certificate in accordance with the provisions of subsection 1 of this section, the member to whom such new certificate is issued shall surrender any prior service certificate or membership certificate issued theretofore; and **provided**, further, that the prior service credit certified in any valid prior service certificate shall not in any case be reduced upon the replacement of such certificate." [L. 1935, c. 48, s. 6; am. L. 1945, c. 73, s. 1(d).]

(e) By deleting from lines 6 and 7 of subsection 2 of section 708 thereof the words "service since he last became a member" and substituting therefor the words "membership service."

Note: As so amended, subsection 2 of § 708 reads:

"2. Allowance on service retirement. Upon retirement for service a member shall receive a service retirement allowance which shall consist of: (a) an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and (b) a pension, in addition to his annuity, which shall be equal to one one-hundred fortieth of his average final compensation multiplied by the number of years of his membership service; and (c) if he has a prior service certificate in full force and effect, an additional pension which shall be equal to one-seventieth

of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate."

(f) By amending subsection 10 of section 708 thereof to read as follows:

"10. **Return of accumulated contributions.** (a) Any member who shall cease to be an employee, except by death or retirement, before completing five years of creditable service, and any person who on July 1, 1945, is a member but not an employee, upon demand within five years from the time he ceases or ceased to be an employee, shall be paid the total amount of his accumulated contributions standing to the credit of his individual account in the annuity savings fund. (b) Except as otherwise provided by such rules and regulations as the board may adopt, any member who is not entitled to the return of his accumulated contributions under provision (a) of this subsection, shall continue his membership, notwithstanding his separation from service, until the attainment of the minimum age of retirement and shall then be entitled to make application for service retirement and to retire on the basis of his creditable service and compensation previous to his separation from service, or until his death in case he shall die without having attained eligibility for retirement."

Section 2. The board of trustees of the employees' retirement system of the Territory is hereby authorized and directed: (1) to notify each eligible employee of the Territory, or any political subdivision thereof, or of the board of water supply, city and county of Honolulu, who is not a member of the system, of his obligation to become a member and his right to claim prior service or membership service, or both, in accordance with the provisions of this Act, and (2) to complete as soon as practicable, but not later than June 30, 1946, from every available source of information a complete service record of all members and employees who are eligible to become members, containing such facts as the board may deem necessary to determine the length of prior service and membership service heretofore rendered by each member or eligible employee and the status of his credit therefor. For such purposes, the board is hereby authorized to employ additional temporary employees and to allow reasonable traveling and personal expenses to any employee who is required to travel to an island other than that of his residence in connection therewith.

The director of personnel of the civil service commissions of the Territory and its several political subdivisions, and every other officer of the Territory, the several political subdivisions thereof and of the board of water supply is hereby directed, upon written request, to furnish all available information from such sources as are accessible to him and otherwise to assist

the board of trustees in carrying out its duties as provided by this Act.

Section 3. Nothing contained in this Act shall be construed to amend or repeal any of the provisions of sections 719 to 721, inclusive, of the Revised Laws of Hawaii 1945.

Section 4. There is hereby appropriated out of the general revenues of the Territory not otherwise appropriated the sum of fifteen thousand dollars (\$15,000.00) to carry out the provisions of section 2 of this Act, to be expended upon vouchers approved by the board of trustees of the said system or in its behalf by such officer as shall be designated by said board for such purpose, acting under prior authorization or pursuant to instructions of the board.

There is hereby further appropriated out of the general revenues of the Territory such funds as are necessary to meet the obligations of the Territory and its several political subdivisions under the provisions of this Act. Such funds shall be payable into the pension accumulation fund of the employees' retirement system of the Territory in the amounts certified by the board of trustees of said system to be payable on account of the prior service and membership service credited to the members of said system under the provisions of this Act. Such certifications and payments shall be made from time to time up to and including June 30, 1947.

Section 5. This Act shall take effect upon its approval.

(Approved May 1, 1945.) S.B. 53, Act 73.

[Note: See Act 70, F-270, re waiver of age limitation; Act 175, F-234, bonus to pensioners; Act 13, E-213, defense bonus.]

Series A-20: ACT 25

An Act Extending the Application of the Employees' Retirement System of the Territory of Hawaii in Respect to Certain Employees.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 703.01.] Section 1. [Salary partly from federal funds.] Where any territorial employee, subject to the classification law, has a portion of his or her salary paid from federal funds but is not subject to the federal retirement system, such employee shall be entitled to all benefits and be required to make all employee contributions under the Employees' Retirement System

of the Territory of Hawaii based upon the full salary received by such employee, including that portion of the salary paid from federal funds. [L. 1945, c. 25, s. 1.]

Section 2. The provisions of section 1 shall be retroactive as to all employees affected, upon the employee paying into said system the contributions which would have been required had such employee's full salary been paid by the territorial government, together with the necessary interest accumulations.

Section 3. This Act shall take effect upon its approval.

(Approved April 20, 1945.) S.B. 155, Act 25.

Title 2. AGRICULTURE & FORESTRY, AND FISHING.

Chapter 16. GENERAL ADMINISTRATION.

Series A-21: ACT 14

An Act to Permit the Board of Commissioners of Agriculture and Forestry to Take for Scientific or Propagation Purposes, Fish, Birds and Mammals and to Issue Permits to Others to do Likewise.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 1006.01. Permits for taking fish, mammals, birds, crustaceans, plant or animal life, etc., for scientific or propagation purposes.]

Section 1. Notwithstanding the provisions of any other law, the board of commissioners of agriculture and forestry or authorized employees thereof may take, for scientific or propagation purposes, fish and the eggs thereof, mammals, birds and the nests and eggs thereof, mollusks, crustaceans, and any other form of plant or animal life.

Section 2. The board of commissioners of agriculture and forestry may issue permits to any person subject to such restrictions as the said board deems desirable, to take, in any part of the Territory, for scientific and propagation purposes, mammals, birds and the nests and eggs thereof, fish and the eggs thereof, mollusks, crustaceans, or any other forms of plant or animal life, the taking of which is otherwise prohibited by law; **provided**, however, that this section shall not apply to any species of beneficial or perching birds, permits for the taking of which are provided for by the provisions of section 1162, Revised Laws of Hawaii 1945.

Section 3. Anything taken under the authority of such permit must be accompanied by such permit while being transported, and shall be exempt from seizure while being transported, or while in possession, in accordance with such permit. [L. 1945, c. 14, ss. 1-3.]

Section 4. This Act shall take effect upon its approval.

(Approved April 11, 1945.) S.B. 35, Act 14.

[See Act 107, A-25, from non-territorial waters. Compare with R. L. 1945, s. 1245.]

[See Act 237, B-137, s. 5, purchase and keeping of birds by Honolulu park board.]

Chapter 17. ANIMALS AND BRANDS.

Series A-22: ACT 104

An Act to Amend Section 1076 of the Revised Laws of Hawaii 1945 Relating to Bovine Tuberculosis.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1076 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 1076. Dairy and breeding cattle; tuberculin tests. All dairy and breeding cattle within the Territory shall be tuberculin tested by the territorial veterinarian, his assistant or deputy, as often as in their judgment such testing is necessary in order to prevent, suppress and eradicate bovine tuberculosis. All cattle so tested shall be marked by the territorial veterinarian, his assistant or deputy, with some distinguishing mark. Said veterinarian, and his duly authorized agents, may, for the purpose of making such tests, go upon any property where such cattle are kept." [L. 1923, c. 24, s. 1; R. L. 1925, s. 626; am. L. 1925, c. 5, s. 1; am. L. 1932, 2d., c. 39, s. 1; am. L. 1933, c. 57, s. 1; R. L. 1935, s. 222; am. L. 1939, c. 111, s. 1; R. L. 1945, s. 1076; am L. 1945, c. 104, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) S.B. 259, Act 104.

[Note: See R. L. 1945, ss. 1364-5, charges, appeals.]

Series A-23: ACT 266

An Act to Add a New Section 1088.01 to the Revised Laws of Hawaii 1945, Making it a Misdemeanor for Owners of Certain Trespassing Animals to Fail or Refuse to Remove Such Animals After Notice.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to the Revised Laws of Hawaii 1945 a new section to be numbered section 1088.01, reading as follows:

"Sec. 1088.01. Misdemeanor to permit continued trespassing by animals. In case cattle, horses, mules, asses or sheep shall trespass on any land, the owner of such animals, if known, shall be notified by the owner or occupier of the land trespassed upon, and if the owner of the animals shall not remove them within twenty-four (24) hours, if such animals are trespassing on a homesite, garden or truck farm, or within forty-eight (48) hours, if such animals are trespassing on any other type of land, he shall be guilty of a misdemeanor, and upon conviction thereof may be fined not exceeding one hundred dollars (\$100.00)." [L. 1945, c. 266, s. 1.]

Section 2. This Act shall in no way affect the operation of section 1084 of said Revised Laws or liability for damages for such trespass.

Section 3. This Act shall take effect upon its approval.
(Approved May 22, 1945.) **H.B. 345, Act 266.**

Chapter 18 A. ECONOMIC POISONS.

AM. '49
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Series A-24: ACT 60

An Act Relating to the Board of Commissioners of Agriculture and Forestry: Providing for the Regulation and Registration of Economic Poisons and for Other Purposes: Providing Penalties.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 1180.01.**] Section 1. **Definitions.** As used in this Act:

(a) The term "person" means and includes any individual, partnership, firm, corporation, or association.

(b) The term "economic poison" means and includes any substance used for the prevention, destruction or repulsion of

insects, fungi, bacteria, weeds, rodents or any other form of plant or animal life which may be a pest or detrimental to vegetation, man, animals or households.

(c) "Board" means the board of commissioners of agriculture and forestry.

(d) "Director" means the director of the division of marketing of the board of commissioners of agriculture and forestry.

(e) The term "label" means and includes any written, printed or graphic matter upon or affixed to any can, sack or other container of economic poisons.

(f) "Brand" or "type" of economic poison means one which differs from any other in guaranteed analysis, ingredients, trademark, name or any other characteristic method of marking of any nature whatsoever. [L. 1945, c. 60, s. 1.]

[Sec. 1180.02.] Section 2. **Rules and regulations.** The board shall have power to make such rules and regulations regarding the sale, registration and labeling of economic poisons as it may deem necessary to carry into effect the full intent and meaning of this Act. It may register or refuse the registration of any economic poison which may be sold or offered or exposed for sale or distribution within the territory, which does not comply with all provisions of this Act or other regulations which may be hereafter made by the board. Such registration shall show the name and percentage of each active ingredient and the total percentage of inert ingredients. [L. 1945, c. 60, s. 2.]

[Sec. 1180.03.] Section 3. **Inspectors.** The board through the director and his authorized agents and inspectors is authorized to enter and procure a sample from any lot, parcel, or package of economic poison which is offered for sale or found in the territory in bulk, sack or package. Such sample shall be divided into two approximately equal parts. Each part shall then be sealed and one part promptly delivered to the person having registered such type or brand of economic poison, or if not registered, to the owner thereof, and the other to a chemist designated by the board. A label shall be placed on each sample stating the name or brand of the contents, the name of the person from whose stock the sample was taken and the time and place of taking such sample. Each such label shall be signed by the director or one of his authorized agents and by the owner or custodian or representative thereof of the lot, parcel or package from which the sample was taken. Such signature shall be affixed at the time of the sealing of such sample. If the signature of the owner, custodian or representative cannot be obtained, or is refused, that fact shall be noted on the label by the director or his agent. The chemist who makes the analysis

shall return to the director two certified copies of his findings. The methods of analysis used shall be as prescribed and defined as official by the Association of Official Agricultural Chemists of North America. The director shall promptly forward one copy of the findings to the person to whom a portion of the sample was delivered, pursuant to this section. Such certified findings shall be admissible in the trial of any case or any hearing involving any provision of this Act as presumptive evidence of the facts therein set forth. [L. 1945, c. 60, s. 3.]

[Sec. 1180.04.] Section 4. **Chemists.** The board shall provide for chemical analysis of all economic poison samples collected by the director or his authorized agents. [L. 1945, c. 60, s. 4.]

[Sec. 1180.05.] Section 5. **Sales prohibited.** No person shall solicit or receive orders for the purchase of, sell, or offer for sale, within the territory, or import or cause to be imported into the territory, any type or brand of economic poisons which type or brand has not been registered and labeled in the manner provided in this Act. [L. 1945, c. 60, s. 5.]

[Sec. 1180.06.] Section 6. **Removal from sale.** Any economic poisons offered for sale in violation of the provisions of this Act must, in accordance with rules and regulations of the board, be removed from sale by the vender thereof upon his receiving notice from the board of such violation. The vender must withhold such economic poisons from sale until such violation has been corrected. [L. 1945, c. 60, s. 6.]

[Sec. 1180.07.] Section 7. **Economic poisons; labels.** (a) There shall be stamped on or printed on each parcel, lot or container of economic poison or on the tag or label affixed thereto in a conspicuous place, a plainly written statement in the English language which shows the following facts with respect to each such parcel, lot or container:

1. The net weight of the parcel, lot or container.
2. The brand name or trade-mark.
3. Directions for use, and dilution if any; **provided**, however, that such directions need not be stated when, in accordance with established local custom, it is to be used in its original form as sold, without dilution or further preparation for use; and provided further that such directions may be printed on a paper or booklet enclosed in each container.
4. The name and address of the manufacturer or the person who registered the economic poison pursuant to section 8 hereof.

(b) Limitations of warranty with respect to the use of an economic poison may be printed upon the label thereof but no such limitations shall exclude or waive the implied war-

ranty that the economic poison corresponds to all claims and descriptions otherwise made in respect thereto; nor shall any such limitations exclude or waive the implied warranty that such economic poison is reasonably fit for use for any purpose for which it is intended according to any printed statement on the label or on any other matter accompanying such economic poison. [L. 1945, c. 60, s. 7.]

[Sec. 1180.08.] Section 8. **Registration of economic poisons.**

(a) Each and every brand or type of economic poison shall be registered with the board; **provided**, however, that any brand or type of economic poison already registered for the year by one person need not be registered by another; and **provided further** that special mixes of economic poisons prepared for the use of a particular "end user" for a particular use need not be registered.

(b) A registration fee of \$5.00 shall be paid to the board for each economic poison registered. Such registration shall expire on July 1 of each year but may be renewed for one year by the payment of a fee of \$5.00.

(c) Moneys received from registration fees shall be deposited with the territorial treasurer in the special fund known as the "marketing inspection and agriculture control fund."

(d) The board, after notice to the registrant or applicant and after a duly held hearing may cancel the registration of or refuse to register the brand or brands of any person who sells or proposes to sell economic poisons which may be detrimental or injurious in effect when applied or used as directed or which is of little or no value for the purposes for which it is intended or with respect to which false or misleading claims or representations are made. The board may, after notice to the applicant or registrant and after a hearing duly held, cancel the registration of the brand or brands of any person who violates any of the provisions of this Act. [L. 1945, c. 60, s. 8.]

[Sec. 1180.09.] Section 9. **Violations; penalties.** Every person who violates any provision of this Act or of any rule or regulation issued thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars for the first offense and a fine of not less than one hundred dollars nor more than one thousand dollars for each offense thereafter. [L. 1945, c. 60, s. 9.]

Section 10. **Effective date.** This Act shall take effect on July 1, 1945.

(Approved April 28, 1945.) **H.B. 267, Act 60.**

Chapter 19. FISHING AND MARINE LIFE.

Series A-25: ACT 107

An Act Relating to the Possession and Sale in
the Territory of Hawaii of Fish, Shellfish, Crustaceans,
or Other Marine Animals or Products.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Possession or sale of fish, etc., from waters not under territorial jurisdiction; licenses, rules.]

[Sec. 1214.01.] Section 1. Any other provision of law to the contrary notwithstanding, wherever the possession or sale of fish, shellfish, crustaceans, or other marine animals or products shall be forbidden by statute, such ban shall not apply where such fish, shellfish, crustaceans, or other marine animals or products shall have been taken from waters not within the jurisdiction of the Territory of Hawaii, and the possession and sale thereof shall have been licensed by the board of agriculture and forestry under such rules and regulations as such board may provide. [L. 1945, c. 107, s. 1.]

[Sec. 1214.02.] Section 2. The board of agriculture and forestry is hereby authorized to issue licenses for the possession and sale, within said Territory, of fish, shellfish, crustaceans, or other marine animals or products, of any size and at any time, if such fish, shellfish, crustaceans, or other marine animals or products shall not have been taken within waters subject to the jurisdiction of said Territory, and to make appropriate rules and regulations governing such possession and sale and the issuance, suspension or revocation of such licenses and the terms for which they shall be effective. [L. 1945, c. 107, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 8, 1945.) S.B. 303, Act 107.

[See Act 14, A-21, taking for scientific purposes.]

Series A-26: ACT 127

An Act to Amend Chapter 19 of the Revised Laws of Hawaii 1945, Relating to Fishing and Marine Life, by Providing that Temporarily the Board of Commissioners of Agriculture and Forestry May Designate Areas Within Which Non-Citizens May Assist in Fishing.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 19 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section, to be numbered section 1217.01, reading as follows:

"Sec. 1217.01. [Emergency exceptions.] For the period of the present war with Japan and Germany, and for six months after the signing of the treaty of peace, the board of commissioners of agriculture and forestry may designate certain areas within which it shall be lawful for citizen fishermen to employ non-citizens to assist in fishing operations generally, and also areas within which it shall be lawful for citizen fishermen to employ non-citizens to assist in fishing without the use of sampans for akule only, provided the board finds that fish are sufficiently abundant in such areas so that the additional catch to be anticipated by the employment of non-citizens will not be likely to unduly deplete the natural supply of fish in such waters." [L. 1945, c. 127, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 10, 1945.) H.B. 609, Act 127.

[Compare with R. L. 1945, s. 1258.]

Series A-27: ACT 23

An Act to Require Owners of Licensed Fishing Craft to Furnish Catch Reports to the Division of Fish and Game, Board of Agriculture and Forestry and Providing Penalties.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 1263.01.] Section 1. **Monthly catch report.** Every owner and/or operator of any fishing boat other than a canoe, required to have a fishing permit by section 1263 of the Revised Laws of Hawaii 1945, shall furnish to the division of fish and game of the board of commissioners of agriculture and forestry or an authorized agent or employee thereof a report with respect to the catch of said boat, and any live, fresh or frozen bait if said

bait used by said boat exceeds an estimated fifty pounds during the month for each month upon a form to be prepared and furnished by the said division, this form to be known as the monthly catch report; **provided**, however, that the division of fish and game may permit the filing of a single monthly catch report for two or more boats which operate as a single fishing unit. The monthly catch report shall be made not later than the 10th of the month following the month which the catch was made. [L. 1945, c. 23, s. 1.]

[Sec. 1263.02.] Section 2. **Cancellation of fishing permit.** The director of the division of fish and game may, in his discretion, cancel the permit issued for any boat other than a canoe pursuant to section 1263, Revised Laws of Hawaii 1945, if any monthly catch report is not made as required by section 1 hereof with respect to the catch of, or the live, fresh or frozen bait used on, the boat for which the permit was issued. In the event a permit is thus cancelled, a new permit may be issued upon payment of the regular fees provided by law, and the filing of an overdue monthly catch report with the division of fish and game. [L. 1945, c. 23, s. 2.]

Section 3. **Effective date.** This Act shall take effect on July 1, 1945.

(Approved April 20, 1945.) S.B. 34, Act 23.

Series A-28: ACT 24

An Act to Amend Sections 1265 and 1266 of the Revised Laws of Hawaii 1945 Relating to Reports and Receipts of Fish Dealers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1265 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 1265. Fish dealers to report. Every fish dealer who engages in the business of buying or selling fish or fishery products caught within, or adjacent to, the waters of the Territory, shall render to the division of fish and game of the board of commissioners of agriculture and forestry, hereinafter referred to in this subtitle as the division, on or before the tenth day of each month on blanks to be furnished by the division, a true and

correct statement in the English language showing the weight, number and value of each of such species of fish purchased, received, or sold during the previous month, as shall, by the division, be required so to be reported." [L. 1925, c. 202, s. 1; am. L. 1929, c. 115, s. 1; R. L. 1935, s. 380; R. L. 1945, s. 1265; am. L. 1945, c. 24, s. 1.]

Section 2. Section 1266 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 1266. Receipts in duplicate. Every fish dealer who engages in the business of buying or selling fish or fishery products caught within, or adjacent to, the waters of the Territory, who receives fish or fishery products from any person, shall issue receipts in the English language to the person from whom fish are received and shall give in such receipt (a) the date of the issuance; (b) the name of the person to whom the receipt is issued; and (c) the following information with respect to each of such varieties of fish as shall by the division be required so to be listed: the weight in pounds of each of the varieties received, the number of fish when these average a pound or more, the price per pound paid; and (d) the signature of the dealer who issues the receipt; and any dealer catching his own fish, or handling any fish caught by fishermen working for or with him, shall make out the same receipt, giving market price for the fish as prevails on date of receipt. A duplicate copy of this receipt shall be kept on file by the dealer issuing the same for a period of six months, and the duplicate copy shall be available for inspection at any time within six months, upon demand of the division, or any duly authorized assistant or agent thereof." [L. 1925, c. 202, s. 2; am. L. 1929, c. 115, s. 2; R. L. 1935, s. 381; R. L. 1945, s. 1266; am. L. 1945, c. 24, s. 2.]

[**Sec. 1266.01.**] Section 3. **"Fish dealer"** means any person, other than a producer or fisherman, who is engaged in the selling, marketing or distributing of any fish or fishery product or in the business of negotiating the sale of any fish or fishery product, but does not include any person selling solely at retail fish or fishery products purchased from a dealer, as defined herein. [L. 1945, c. 24, s. 3.]

Section 4. This Act shall take effect on July 1, 1945.
(Approved April 20, 1945.) **S.B. 36, Act 24.**

[See Act 14, A-21, fish, etc. for scientific purposes; Act 107, A-25, fish caught in non-territorial waters; Act 23, A-27, catch reports.]

Chapter 20. FOOD PRODUCTS.

Series A-29: ACT 252

An Act Relating to the Board of Commissioners of Agriculture and Forestry; Regulating the Sale, Shipment and Packing of Agricultural Commodities and the Grading and Labeling Thereof; Providing for the Inspection of Such Commodities and Penalties for the Violation of this Act; and Repealing Sections 1301, 1302, 1303 and 1311 to 1316, Both Inclusive, of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

[MARKETING OF AGRICULTURAL COMMODITIES.]

[Sec. 1311.01.] **Section 1. Definitions.** As used in this Act, the term:

(a) "Board" means the board of commissioners of agriculture and forestry;

(b) "Director" means director of the division of marketing of the board of commissioners of agriculture and forestry;

(c) "Producer" means any person engaged within the Territory in the growing or production for market of any agricultural commodity, or any cooperative association of such persons;

(d) "Agricultural commodity" means fresh fruits and fresh vegetables of every kind and character, whether or not frozen or packed in ice, which have been produced within the Territory of Hawaii;

(e) "Produce dealer" means any person other than a producer who is engaged in the selling, marketing or distributing of any agricultural commodity or in the business of soliciting or negotiating the sale of any farm product, but does not include any person selling solely at retail. For the purposes of this definition, sales to the United States army or navy, restaurants, hotels, hospitals or other institutions are not retail sales.

(f) "M.Q." means marketable quality, and is a descriptive term applicable to agricultural commodities which have a market value and are not otherwise graded. [L. 1945, c. 252, s. 1.]

[Sec. 1311.02.] **Section 2. Duties of director; violations; proceedings; penalties.** It shall be the duty of the director to administer and enforce the provisions of this Act and any rules or regulations made by the board pursuant thereto.

The following penalties, remedies, procedures and actions shall apply in instances of violations and complaints of viola-

tions of the provisions of this Act, or of the rules and regulations issued by the board under the authority of this Act:

(a) **[Civil action.]** Any person who violates any provisions of this Act or any rule or regulation issued thereunder shall be liable civilly in an action brought by the director for a penalty in an amount not to exceed a sum of five hundred dollars for each and every violation. Any money recovered by the director under this provision shall be deposited in the marketing inspection and agriculture control fund;

(b) **[Nuisance may be enjoined, abated.]** Violation of this Act or of any regulation issued thereunder is declared a public nuisance and may be enjoined or abated as such in a suit filed and prosecuted in the circuit by the director and/or the attorney general. The several circuit courts are hereby vested with jurisdiction to prevent and restrain violation of this Act or of any regulation effective thereunder;

(c) **[Misdemeanor.]** Every person who violates any provision of this Act or of any rule or regulation issued thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars. Each day during which any of the above violations referred to continue shall constitute a separate offense;

(d) **[Complaints, hearings.]** Upon the filing of a written verified complaint charging violation of any provision of this Act or of any rule or regulation issued thereunder and prior to institution of any court proceedings authorized by this section, the director may, in his discretion refer the matter to the attorney general of the Territory or any public prosecutor for action pursuant to the provisions of this Act or call a hearing to consider the charges set forth in such complaint. In such case the director shall cause a copy of such complaint, together with a notice of the time and place of hearing of such complaint, to be served on the person complained against, to be known as the respondent, either in person or by mail. Such service shall be made at least ten (10) days before the time set for said hearing. Such hearing shall be held in the city or town in which is situated the principal place of business of the respondent, or in which the violation complained of is alleged to have occurred, or in the nearest office of the board of commissioners of agriculture and forestry, at the discretion of the director. At the time and place designated for such hearing the director or his authorized agent shall hear the parties to said complaint and shall make findings based upon the facts established at such hearing;

(e) [Dismissal, when.] If the director finds that no violation has occurred he shall forthwith dismiss such complaint and notify the parties to such complaint;

(f) [Enforcement.] If the director finds that a violation has occurred he shall so enter his findings and notify the parties to such complaint. Should the respondent thereafter fail, neglect or refuse to desist from such violation, the director may thereupon bring, or cause to be brought, action in a circuit court for the enforcement of the provisions of this Act.

The penalties and remedies prescribed in this section with respect to any violation mentioned in this section shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal or alternative rights, remedies or penalties provided or allowed by law with respect to any such violation. [L. 1945, c. 252, s. 2.]

[Sec. 1311.03.] Section 3. **Advisory committee on markets.** There shall be an advisory committee on markets composed of the attorney general or a deputy attorney general designated by him, one officer of the University of Hawaii extension service, and the director who shall be chairman of such committee. In addition there shall be two other members, one representing the producers and the other the produce dealers. The latter two members shall be chosen by the unanimous action of the other members. [L. 1945, c. 252, s. 3.]

[Sec. 1311.04.] Section 4. **Rules and regulations.** The board shall have power to make rules and regulations as follows:

Defining grades of agricultural commodities and standard containers for packing of particular agricultural commodities and prohibiting the sale, offering for sale, or transportation of agricultural commodities unless packed in standard containers and labeled in the manner provided for by the regulation with a grade for which such product meets the minimum standards, or unless labeled "M.Q."; **provided**, that such prohibition shall not apply to the sale, offering for sale, or transportation to a plant for grading, packing or processing, or transportation to a warehouse for storage;

Defining "suitable shipping condition" for agricultural commodities which are to be shipped for sale from one island to another within the Territory or to points outside the Territory, and prohibiting such shipment for sale of agricultural commodities which do not meet the minimum standards set for "suitable shipping condition";

Prescribing records to be kept in connection with purchases of agricultural commodities by persons other than produce dealers purchasing from a producer or producers for purposes

of resale, five (5) or more tons of agricultural commodities during any one calendar month;

And prescribing records to be kept by produce dealers in connection with the purchase, sale, transport for sale, solicitation or negotiation of sale with respect to an agricultural commodity;

All rules and regulations made as aforesaid shall be made only after consultation by the board with the advisory committee on markets and in compliance with all other laws concerning the making of rules and regulations having the force of law. When made, all such rules and regulations shall have the force and effect of law.

The board, in making such rules shall, among other things, take into account, so far as applicable, the factors of maturity, condition, soundness, color, shape, size and freedom from defects of the agricultural commodity in question and shall also take into consideration the official standards, grades or classifications promulgated from time to time by the secretary of agriculture of the United States, commonly known as U. S. Grades. [L. 1945, c. 252, s. 4.]

[Sec. 1311.05.] Section 5. **Prohibition of deceptive packing.** No person shall sell, expose or offer for sale, or transport for sale in open or closed packages agricultural commodities packed in such manner that the face or shown surface is so superior to the unexposed portion as to quality, size, condition or in any other respect as to materially misrepresent the contents. [L. 1945, c. 252, s. 5.]

[Sec. 1311.06.] Section 6. **Licenses.** No person shall purchase from a producer or producers for purpose of resale more than five (5) tons of agricultural commodities during any one calendar month or act as a produce dealer without having obtained a license as hereinafter provided. Application for such license shall be made to the director. Such application shall, in each case, state the class or classes of agricultural commodities the applicant proposes to handle, the full name of the person applying for such license, and if the applicant be a firm, exchange, association or corporation, the full name of each member of the firm or the names of the officers of the exchange, association or corporation. Such applications shall state the principal business address of the applicant in the Territory. Such applicant shall further satisfy the director of his or its character, responsibility and good faith in seeking to carry on the business stated in the application. Every such application shall be accompanied by a license fee of five dollars.

All licenses issued hereunder shall automatically expire on July 1 of each year. Application for the renewal of a pre-existing

license shall be in such form as may be provided by the director. Should any person required hereunder fail, refuse or neglect to apply for the renewal of a pre-existing license within thirty (30) days after the expiration thereof, a penalty of three dollars shall be added to the renewal fee of five dollars and shall be paid by the applicant before the renewal license may be issued.

The director with the approval of the board may in his discretion suspend the license of any person convicted of a misdemeanor under section 2 (c) of this Act for a period not in excess of sixty (60) days; **provided** however, that such suspension shall be ordered by the director within thirty (30) days of such conviction. [L. 1945, c. 252, s. 6.]

[Sec. 1311.07.] **Section 7. Inspection and classification of agricultural commodities: fees.** The director with the approval of the board, may contract with the United States department of agriculture for obtaining the services of a supervising inspector employed by said department and the establishment of a cooperative inspection service with the United States government. The director, or the supervising inspector with the approval of the director, is hereby authorized to designate any competent employee or agent of the division of marketing as an inspector to inspect or classify agricultural commodities in accordance with such rules and regulations as the board may make, and at such time and places as may be designated by such supervising inspector or director. In addition, such inspectors shall be authorized to inspect or classify agricultural commodities at the request of persons having a financial interest in such commodities and to ascertain and certify to such persons the grade, classification, quality or condition thereof and other pertinent facts. The board is authorized to fix, assess and collect or cause to be collected fees for such services when they are performed by employees of the division of marketing. Such fees shall be on a uniform basis and in an amount reasonably necessary to cover the cost of inspection and the administration of this Act; **provided** however, that the board may prescribe a reasonable charge for traveling expenses and extraordinary services when the performance of such services involves unusual cost in their performance. No fee shall be charged for an inspection unless such inspection was requested by a person having a financial interest in the inspected commodity. [L. 1945, c. 252, s. 7.]

[Sec. 1311.08.] **Section 8. Appeal to director for classification: fee.** Whenever any quantity of any agricultural commodity shall have been inspected hereunder at the request of a person having a financial interest in the inspected commodity and a question arises as to whether the certificate issued with

respect to such inspection shows true grade, class, quality or condition of such product, any person having a financial interest in the inspected commodity subject to such regulations as the board may prescribe, may appeal to the director and the director is authorized to cause such inspection to be made and such tests to be applied as it may deem necessary and to determine and issue a written finding as to the true grade or class of the product, the quality or condition thereof.

Whenever any appeal shall be made to the director under this section he shall charge and collect or cause to be collected a reasonable fee. The amount of such fee shall be fixed by the director and shall be refunded if the appeal is sustained. [L. 1945, c. 252, s. 8.]

[Sec. 1311.09.] Section 9. **Certificate as evidence.** Any certificate made by an inspector pursuant to section 7 of this Act or any written finding of the director pursuant to section 8 of this Act shall be admissible in evidence in all courts of the Territory as presumptive evidence of all facts and matters therein stated. [L. 1945, c. 252, s. 9.]

[Sec. 1311.10.] Section 10. **Marketing inspection and agriculture control fund.** There is hereby established in the treasury of the Territory a special fund to be known as the marketing inspection and agriculture control fund. The treasurer of the Territory is designated custodian of the fund. All fees, expenses and penalties collected by the director pursuant to the provisions of this Act and any funds from the sale of labels or tags which may be prepared and sold pursuant to the regulation hereunder shall be forwarded to the treasurer of the Territory as provided in the laws governing the collection and deposit of public funds. Said fund shall be used for the administration of this Act and is hereby appropriated for said purpose. [L. 1945, c. 252, s. 10.]

Section 11. **Repeal and amendment of inconsistent laws.** Sections 1301, 1302, 1303 and 1311 to 1316, both inclusive, of the Revised Laws of Hawaii 1945 are hereby repealed. All other laws inconsistent with this Act are hereby amended to conform hereto.

Section 12. This Act shall take effect on July 1, 1945.

(Approved May 21, 1945.) S.B. 90, Act 252.

[Compare with R. L. 1945, c. 41, cold storage.]

Chapter 21. PLANT LIFE, SEEDS AND SOILS.

Series A-30: ACT 90

An Act Relating to the Board of Commissioners of Agriculture and Forestry; Providing Regulation, Labeling, Testing and Sale of Seeds Used for Seedling Purposes; Repealing Sections 1354 to 1363, Both Inclusive, of the Revised Laws of Hawaii 1945; Providing Penalties.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Sections 1354 to 1363, both inclusive, of the Revised Laws of Hawaii 1945 are hereby repealed.

Section 2. Chapter 21 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto sections 1354.01 to 1354.10 to read as follows:

"Sec. 1354.01. Definitions. As used in this subtitle:

(a) The terms used herein shall be construed so as to conform in so far as possible with the construction placed upon the Federal Seed Act and regulations issued thereunder, and to effectuate its purpose and to make uniform the laws of this Territory with those of the states which have adopted it.

(b) 'Agricultural seeds' means the seeds of all domesticated grasses and cereals, and of all legumes and other plants grown as turf, cover crops, forage crops, fiber crops, or field crops, and mixtures of such seeds, but does not include varieties which are generally known and sold as flower seeds or vegetable seeds.

(c) 'Vegetable seeds' means the seeds of crops which are or may be grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds.

(d) 'Weed seeds' means any and all noxious weed seeds, and any and all seeds not included in the definition of agricultural seeds, when occurring incidentally in agricultural seed.

(e) 'Noxious weed' means any species of plant which is liable to be detrimental or destructive and difficult to control or eradicate, which has been defined or designated as a noxious weed by regulation of the board.

(f) 'Label' means and includes all labels, and other written, printed or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers.

(g) 'Advertisement' means representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this article.

(h) 'Board' means the board of commissioners of agriculture and forestry.

(i) 'Director' means the director of the division of marketing of the board of commissioners of agriculture and forestry.

(j) 'Person' means any individual, partnership, firm, corporation or association. [L. 1945, c. 90, pt. of s. 2.]

Sec. 1354.02. Rules and regulations. The board shall have power to make rules and regulations with respect to:

(a) Plants which are to be considered as noxious weeds for the purpose of this Act.

(b) The maximum amounts of noxious weed seeds which may be found in agricultural or vegetable seeds sold in the Territory.

(c) Germination standards for agricultural and vegetable seeds.

(d) The inspection, sampling and testing of seeds at the request of persons interested therein, and charges to be made for such services.

(e) Such further rules and regulations regarding the sale and labeling of seeds as it may deem necessary to carry into effect the full intent and meaning of this Act.

In making rules and regulations with respect to standards for agricultural and vegetable seeds and tolerances of noxious weed seeds, the board shall follow as closely as practicable the standards and tolerances established under the Federal Seed Act. [L. 1945, c. 90, pt. of s. 2.]

Sec. 1354.03. Prohibiting sales: germination tests. No person shall sell or offer or expose for sale any agricultural or vegetable seed for sowing purposes within the territory unless:

(a) Such seed has been labeled in accordance with the provisions of this subtitle.

(b) No false or misleading advertisement has been made with respect to such seed.

(c) The amount of noxious weed seeds are not in excess of tolerances established by the rules and regulations of the board.

(d) A testing of such seed has been completed within nine months, exclusive of the calendar month in which the test was completed, to determine the percentage of germination. [L. 1945, c. 90, pt. of s. 2.]

Sec. 1354.04. Labels. (a) Each container of agricultural seed which is sold or offered for sale within this Territory for sowing purposes shall bear thereon, or have attached thereto in a conspicuous place, a plainly written or printed label or tag in the English language, giving the following information:

1. Commonly accepted name of (a) kind or (b) kind and variety, or (c) kind and type, of each agricultural seed component in excess of five per cent of the whole, and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word 'mixture' or the word 'mixed' shall be shown conspicuously on the label.

2. Lot number or other lot identification assigned by the board.

3. Percentage by weight of all weed seeds.

4. The name and approximate number of each kind of noxious weed seeds to the extent required by rules and regulations of the board.

5. Percentage by weight of agricultural seeds other than those required to be named on the label.

6. Percentage by weight of inert matter.

7. For each named agricultural seed (a) the percentage of germination, exclusive of hard seed, (b) the percentage of hard seed, if present, and (c) the calendar month and year the test was completed to determine such percentages. Following (a) and (b) the additional statement 'total germination and hard seed' may be stated as such, if desired.

8. Name and address of the person who labeled such seed if it was labeled in the Territory. If not labeled within the Territory, the name and address of the person who imported or caused such seed to be imported into the Territory.

(b) Each container of vegetable seed which is sold or offered for sale within this Territory for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

1. Name of kind and variety of seed.

2. For seeds which germinate less than the standard last established by the rules and regulations of the board:

a. Percentage of germination, exclusive of hard seed.

b. Percentage of hard seed, if present.

c. The calendar month and year the test was completed to determine such percentages.

d. The words 'below standard' in not less than eight-point type.

3. Name and address of the person who labeled such seed if it was labeled in the Territory. If not labeled within the Territory, the name and address of the person who imported or caused such seed to be imported into the Territory. [L. 1945, c. 90, pt. of s. 2.]

Sec. 1354.05. Removal from sale. Any seed offered for sale in violation of the provisions of this Act or of any rules or regulations made thereunder must, in accordance with rules and regulations of the board, be removed from sale by the vender thereof upon his receiving notice from the board or director of such violation. The vender must withhold such seeds from sale until such violation has been corrected. [L. 1945, c. 90, pt. of s. 2.]

Sec. 1354.06. Inspectors. The board, through the director and his authorized agents and inspectors is authorized to enter any premises and procure a sample from any lot, parcel, or package of seeds which is offered for sale or found in the Territory in bulk, sack or package. Such sample shall be divided into two approximately equal parts. Each part shall then be sealed and one part promptly delivered to the person selling or offering for sale such seed, and the other to the laboratory maintained by the board. A label shall be placed on each sample stating the name of the contents, the name of the person from whose stock the sample was taken and the time and place of taking such sample. Each such label shall be signed by the director or one of his authorized agents and by the owner or custodian or representative thereof of the lot, parcel or package from which the sample was taken. Such signature shall be affixed at the time of the sealing of such sample. If the signature of the owner, custodian or representative cannot be obtained, or is refused, that fact shall be noted on the label by the director or his agent. Upon the completion of the test of the sample the director shall promptly forward a copy of the result of the test to the person to whom a portion of the sample was delivered pursuant to this section. [L. 1945, c. 90, pt. of s. 2.]

Sec. 1354.07. Laboratory and analytical procedure. (a) The board shall maintain a properly equipped laboratory for making the tests required by this Act. [L: 1945, c. 90, pt. of s. 2.]

(b) The method of sampling and testing of seed shall be based upon the rules for seed testing adopted by the Association of Official Seed Analysts of North of America. [L. 1945, c. 90, pt. of s. 2.]

Sec. 1354.08. Importers: licenses. No person shall import or cause to be imported into the Territory for purposes of sale or resale, any agricultural or vegetable seeds for sowing purposes unless such person shall have a license to do so from the director. Application for such license shall be made to the director and shall conform to such rules and regulations with respect thereto as may be made by the board. A license fee of ten dollars shall be paid to the director. All licenses shall expire on July 1 of each year. [L. 1945, c. 90, pt. of s. 2.]

Sec. 1354.09. Disposition of fees and charges. All fees and charges received under the provisions of this subtitle shall be deposited with the territorial treasurer in the special fund known as the 'marketing inspection and agriculture control fund'. [L. 1945, c. 90, pt. of s. 2.]

Sec. 1354.10. Violations: penalties. Every person who violates any provision of sections 1354.03, 1354.04, 1354.05 and 1354.08 or the provisions of any rule or regulation made by the board pursuant to section 1354.02, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for the first offense, and a fine of not less than one hundred dollars nor more than five hundred dollars for each offense thereafter." [L. 1945, c. 90, pt. of s. 2.]

Section 3. This Act shall take effect on July 1, 1945.

(Approved May 7, 1945.) H.B. 341, Act 90.

Title 4. AUDIT AND BUDGET.

Chapter 26. INVENTORY, ETC.

Series A-31: ACT 151

An Act to Amend Sections 1651, 1652, 1655 and 1657 of the Revised Laws of Hawaii 1945, Relating to Inventories of Government Assets.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1651 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(a) By deleting from line 4 of said section the words "the auditor" and the comma after said words.

(b) By deleting from lines 10 and 11 of said section the phrase "in the month of July" and inserting in lieu thereof the phrase "on or before August 15".

(c) By deleting from lines 11 and 12 of said section the following words "tax assessor of the taxation division in which such property is situate" and inserting in lieu thereof the words "auditor of the Territory".

Note: As so amended, § 1651 reads:

"Sec. 1651. By territorial officers. It shall be the duty of the secretary of the Territory, the superintendent of public works, the commissioner of public lands, the treasurer, the attorney general, the superintendent of public instruction, the president of the board of commissioners of agri-

culture and forestry, the surveyor, the high sheriff, the clerk of the supreme court (for the whole judiciary department of the Territory), the president of the board of health, and all other persons and boards of a public character having in their custody or under their control or in any wise using property belonging to the Territory (which latter persons and boards are not by law under the control and direction of any of the departments or heads of departments herein specifically named), on or before August 15th of each year to prepare and file with the auditor of the Territory, a return or inventory, sworn to before a person authorized by law to administer oaths, containing a full, true and corrected list by detailed items of all property, of whatsoever nature, (as of July 1 of the year for which such return is made) belonging to the Territory and in the possession, custody, control or use of the officer so making such return or of the department of the government over which he presides or of any officer, agent or employee serving in such department or under such returning officer, and containing further opposite each item a statement of the full cash value of the property therein named according to the best knowledge, information and belief of the officer making such return. It shall also be the duty of the officer making such return to similarly file a copy of such sworn inventory with the board of disposal of the Territory, accompanied, however, by detailed separate statements, under oath, of those items of property acquired, and those disposed of, during the year elapsed since the inventory made as of the last preceding July 1. [L. 1909, c. 77, s. 1; am. L. 1923, c. 216, s. 1; R. L. 1945, s. 1651; am. L. 1945, c. 151, s. 1.]”

[See R. L. 1945, s. 1637, responsibility for property.]

Section 2. Section 1652 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(a) By deleting from line 1 of said section the words “tax assessor” and inserting in lieu thereof the words “territorial auditor”.

(b) By deleting from line 3 of said section the phrase “in the month of January” and inserting in lieu thereof the phrase “on or before August 15”.

(c) By deleting from line 4 of said section the words “tax assessor of the taxation division in which such property is situate” and inserting in lieu thereof the words “auditor of the Territory”.

(d) By deleting from lines 7 and 8 of said section the following words and punctuation “as of January 1, of the year for which such return is made, belonging to such county or city and county”.

(e) By deleting from line 8 of said section the word “January” and inserting in lieu thereof the word “July”.

Note: As so amended, § 1652 reads:

“Sec. 1652. By county officers to territorial auditor. It shall be the duty of the chairman of the board of supervisors in each county and the mayor of the city and county of Honolulu, on or before August 15th of each year, to prepare and file with the auditor of the Territory a return or

inventory, sworn to before a person authorized by law to administer oaths, containing a full, true and correct list by detailed items of all property of whatsoever nature, as of July 1 of the year for which such return is made, of all property belonging to the Territory and in the use, custody or possession for the time being of such county or city and county or any of the officers thereof, and containing further, opposite each item, a statement of the full cash value of the property therein named according to the best knowledge, information and belief of the officer making such return. [L. 1909, c. 77, s. 2; R. L. 1925, s. 189; am. L. 1927, c. 138, s. 1; R. L. 1935, s. 621; R. L. 1945, s. 1652; am. L. 1945, c. 151, s. 2.]”

Section 3. Section 1655 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

“Sec. 1655. Authority to withhold salary. It shall be the duty of the auditor of the Territory and the auditor of each county to ascertain if inventories have been filed as required by the provisions of sections 1651 and 1653, respectively. Should any officer, head of department, agent, employee or other person fail to file the required inventory within the time prescribed, the auditor shall withhold the salary or wage due to such officer, head of department, agent, employee or other person until such inventory is filed.” [L. 1929, c. 137, s. 2; am. L. 1931, c. 26, s. 1; R. L. 1935, s. 623; R. L. 1945, s. 1655; am. L. 1945, c. 151, s. 3.]

Section 4. Section 1657 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

“Sec. 1657. Duties of territorial and county auditors. It shall be the duty of the auditor of the Territory to examine each return or inventory filed as required by sections 1651 and 1652 and of the auditor of each county to examine each return or inventory filed as required by section 1653, to add thereto all, if any, items of property (with a statement of their full cash value) omitted therefrom and which under the provisions of said sections, or any of them, should have been included therein, to make such corrections and alterations in the valuations as in his judgment may be required by truth and accuracy, and to enter in one or more books to be kept for the purpose and to be available at all times for inspection by any taxpayer, all of the property and valuations named in such inventories, as so added to, revised and corrected as aforesaid and classified for convenience and facility of reference.

And it shall be the duty of the auditor to charge the amounts of the inventories to proper accounts on the general ledgers of the Territory or county so that the values of the properties shall be shown and appear at all times in the balance sheet of the books of the Territory or county.

It shall be the duty of the superintendent of public works and the several tax assessors at all times to advise or assist the auditor of the Territory in the valuation of all property belonging to the Territory.

And it shall be the duty of the county engineers to advise or assist the auditors of their respective counties as to the valuation of the property belonging to the county." [L. 1909, c. 77, s. 4; am. L. 1915, c. 133, s. 2; R. L. 1945, s. 1657; am L. 1945, c. 151, s. 4.]

Section 5. If any law shall be enacted transferring the expenses, including salaries, of the circuit courts to the Territory, the chief clerks of the circuit courts shall make their return of inventory thereafter under the provisions of section 1651 and not under the provisions of section 1654 of said Revised Laws.

Section 6. This Act shall take effect upon July 1, 1945.
(Approved May 14, 1945.) S.B. 94, Act 151.

Title 5. EDUCATION.

Chapter 27. DEPARTMENT OF PUBLIC INSTRUCTION.

Series A-32: ACT 231

An Act Relating to Dental Hygiene Work
with the Children of the Territory, and Amending
Section 1721 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1721 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 1721. **Dental hygiene.** The department of public instruction is authorized and instructed to perform preventive dental hygiene work with the children of the Territory of school age in the public schools and in such private schools as request or consent to such work. Said department is further authorized and instructed to engage, at the proper salaries, dental hygienists, for such work, and a supervising dental hygienist to have general charge of such work." [L. 1921, c. 160, s. 1; R. L. 1945, s. 1721; am. L. 1945, c. 231, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1945.) S.B. 243, Act 231.

[Note: Dental hygienists, R. L. 1945, c. 40, amended by Act 118, A-44, post.]

Series A-33: ACT 108

An Act to Establish and Regulate a Program of Adult Education Under the Direction and Supervision of the Department of Public Instruction.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 1726.01.] Section 1. **Adult education authorized.** To provide increased opportunity for the people of Hawaii, the department of public instruction is authorized and directed to establish and regulate a program of adult education of less than college grade to be conducted, wherever feasible, in public school buildings and to use public school equipment, under conditions determined by said department, when such equipment is needed. [L. 1945, c. 108, s. 1.]

[Sec. 1726.02.] Section 2. **Scope of courses offered.** As rapidly as facilities are available and interest is developed, courses shall be initiated in the following fields:

a. **Basic* elementary education.** A foundation program in reading and speaking English, writing and arithmetic for persons with no schooling or only primary grade training.

* "Basic" changed by secretary to "Basic" to correct obvious typographical error.

b. **Advanced elementary education.** A program in advanced elementary education for those persons who have completed four to eight years of schooling and who desire to obtain more complete mastery of the fundamentals.

c. **Secondary education.** A program of secondary education for those adults who, in youth, left school or for some reason had their education curtailed and who now desire to continue their education.

d. **Homemaking and parent education.** A program in homemaking and parent education for all those parents and other adults who desire training in family life, including child care, nursing, budgeting, and other instruction basic to homemaking.

e. **Civic training.** A program of understanding and enlightenment in civic duties, responsibilities and obligations for all persons who desire to keep pace with today's community, national and world developments and who realize the necessity of continuing study for the adequate fulfillment of their civic functions.

f. **Business and vocational education.** A program that will assist in the continuing readjustments and changing responsibilities of workers in agriculture, business, trades, and industry.

g. **Cultural opportunities.** A program of adult education that will meet the interests and desires of those people who wish to enrich and to broaden their cultural, recreational and social interests. [L. 1945, c. 108, s. 2.]

[Sec. 1726.03] Section 3. **Advisory council.** This program is placed under the department of public instruction who shall appoint an advisory council for adult education composed of fifteen or more representatives of industry, labor, civic organizations and education. [L. 1945, c. 108, s. 3.]

[Sec. 1726.04.] Section 4. **Financing the program.** The financial support for this program shall be in part from fees collected from students enrolled, who are regularly employed, and in part out of public funds appropriated for this purpose. Fees shall be set in accordance with the recommendations of the advisory council and may be collected from students regularly enrolled; provided, that no fee shall be charged of students who are not working for wages, or of discharged veterans unless such fees are paid out of federal funds. Administrative and supervisory costs, costs of instruction and all other necessary expenses not covered by fees and other authorized charges shall be paid for out of funds appropriated for this purpose. [L. 1945, c. 108, s. 4.]

[Sec. 1726.05.] Section 5. The promotion, direction, and supervision of the adult vocational education program shall continue under the vocational division of the department. [L. 1945, c. 108, s. 5.]

Section 6. This Act shall take effect July 1, 1945.

(Approved May 8, 1945.) S.B. 323, Act 108.

[Note: Sec. 1758.01, base pay rate for teachers, added by Act 263, A-4, ante.]

Chapter 30. SCHOOLS AND ATTENDANCE.

Series A-34: ACT 126

An Act to Amend Section 1824 of the Revised Laws of Hawaii 1945, Relating to Standard Schools and Special Fees.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1824 of the Revised Laws of Hawaii 1945 is hereby amended:

(a) By deleting from the title thereof the words "Standard Schools", and inserting in its place the words "Public Schools".

(b) By deleting therefrom the first sentence thereof.

(c) The department of public instruction is directed to maintain the accepted requirements of the standard schools now in

existence; and, as rapidly as possible, establish standard sections in all elementary schools.

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) H.B. 335, Act 126.

Note: As so amended, § 1824 reads:

“Sec. 1824. **Public schools; special fees.** The department may authorize schools to levy and collect special fees for the purpose of covering breakage, replacement of apparatus and supplies, and the purchase of new equipment and supplies furnished by any such school, which fees shall be deposited in a separate fund by such schools and expended by them under such rules and regulations as the department may prescribe. No equipment, material or other fees shall be assessed against any pupil in any elementary school.

The department is directed to maintain the accepted requirements of the standard schools in existence on May 8, 1945; and, as rapidly as possible, establish standard sections in all elementary schools. [L. 1896, c. 57, s. 23 R. L. 1925, s. 312; am. L. 1927, c. 103, s. 1; am. L. 1931, c. 263, s. 1; am. L. 1933, c. 192, s. 1; R. L. 1935, s. 731; am. L. 1937, c. 201, s. 1; R. L. 1945, s. 1824; am. L. 1945, c. 126, s. 1.]”

[See R. L. 1945, s. 1843, book rentals.]

Series A-35: ACT 227

An Act to Amend Chapter 30 of the Revised Laws of Hawaii 1945, Relating to Schools and School Attendance, Public and Private Schools, and to the Department of Public Instruction.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 30 of the Revised Laws of Hawaii 1945 is hereby amended by adding a paragraph at the end of section 1827 thereof to read as follows:

“Failure to meet the standards required of private schools or failure to in any wise comply with the provisions of law shall be cause for refusal to issue a permit or for the revocation or suspension of any permit.”

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1945.) H.B. 717, Act 227.

Note: As so amended, § 1827 reads:

“Sec. 1827. **Private schools, how established.** Any person or persons desiring to establish a private school within the Territory shall, prior to the establishment thereof, make an application in writing to the department of public instruction, which application shall be signed by the applicant or applicants and shall state in substance (1) the name or names of the persons desiring to establish such school; (2) the proposed location

thereof; and (3) the course of instruction and the languages in which such instruction is to be given.

Upon the receipt and approval of such application, the department shall issue to the person or persons applying therefor a permit in form to be by it approved, authorizing the establishment of such school; and no private school shall be established except in conformity with this chapter.

Attendance at any school established or maintained without complying with the terms of this section shall not be considered attendance at a public or private school within the meaning of this chapter.

The department may, from time to time, require regularly established private schools to submit reports in such form as it may deem proper. Failure to comply with the provision of this section shall constitute an offense punishable, upon conviction, by a fine not exceeding ten dollars for each offense.

Failure to meet the standards required of private schools or failure to in any wise comply with the provisions of law shall be cause for refusal to issue a permit or for the revocation or suspension of any permit. [L. 1896, c. 57, s. 21; am. L. 1907, c. 48, s. 1; am. L. 1917, c. 75, s. 1; am. L. 1920, c. 21, s. 1; R. L. 1945, s. 1827; am. L. 1945, c. 227, s. 1.]

[See R. L. 1945, s. 1899, vocational schools.]

Series A-36: ACT 156

An Act to Amend Chapter 30 of the Revised Laws of Hawaii 1945, by Amending Section 1832 Thereof and Repealing Section 1833 Thereof and by Providing for the Enforcement of Sections 1830 and 1831 Thereof and for Attendance Officers and Chief Attendance Officers and an Appropriation for Such Enforcement.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 30 of the Revised Laws of Hawaii 1945 is hereby amended by:

(a) Amending section 1832 thereof to read:

"Sec. 1832. Enforcement. The department of public instruction shall be charged throughout the Territory with the enforcement of sections 1830 and 1831 and for such enforcement shall appoint in the division of pupil guidance a sufficient number of attendance officers and chief attendance officers. Nothing in this section shall relieve any chief of police, sheriff, deputy sheriff, or police officer of his responsibility for the enforcement of said sections, but such enforcement shall be subject to the plans and policies of the department." [R. L. 1945, s. 1832; am. L. 1945, c. 156, s. 1(a).]

(b) Repealing section 1833 thereof.

Section 2. Out of the moneys in the treasury received from general revenues, the sum of \$34,000 is hereby appropriated for the biennial period ending June 30, 1947, for the department of public instruction for the enforcement by said department of sections 1830 and 1831 of the Revised Laws of Hawaii 1945.

Section 3. This Act shall take effect on July 1, 1945.
(Approved May 14, 1945.) H.B. 641, Act 156.

Series A-37: ACT 21

An Act to Amend Section 1835 of the Revised Laws of Hawaii 1945, Relating to Religious Instruction in the Public Schools.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1835 of the Revised Laws of Hawaii 1945 is hereby amended by amending the last paragraph thereof to read as follows:

"The privilege of such release shall be withdrawn by the department in case the pupil does not actually attend the sessions of religious instruction. No teacher of the public schools shall participate in such religious instruction during the school hours for which he is employed to teach in the public schools, no public funds shall be used directly or indirectly for such religious instruction, and no classroom shall be used for such instruction at any time when its use would otherwise be required in connection with the regular program of the school." [L. 1929, c. 134, ss. 1-4; R. L. 1945, s. 1835; am. L. 1945, c. 21, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved April 18, 1945.) H.B. 167, Act 21.

Note: The preceding portion of § 1835 reads:

"Sec. 1835. Religious education. The department shall provide for the release of, and shall release, any pupil in any public school from attendance at the public school for a period not to exceed sixty minutes each week during the school year, on such days and during such school hours as the department shall designate, for the purpose of receiving religious instruction from the religious organization of his choice when such release is requested in writing by a parent, guardian, or other person having custody or control of such pupil. Actual attendance at the sessions of such religious instruction shall count as attendance at the public schools for all purposes where attendance forms the basis of computation."

Chapter 32. TECHNICAL AND VOCATIONAL TRAINING.

Series A-38: ACT 219

An Act Creating the Territorial Advisory Board of Vocational Education, Adding Section 1892.01, and Amending Section 1893 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. A new section to be numbered section 1892.01 is hereby added to the Revised Laws of Hawaii 1945 after section 1892 and to read as follows:

"Sec. 1892.01. [Advisory Board of Vocational Education.] There is hereby created the territorial advisory board of vocational education whose duty it shall be to advise and to make recommendations to the territorial board of vocational education, concerning all vocational educational matters including the administration of federal grants and funds. The territorial advisory board of vocational education created by this section shall be appointed by the governor as provided by section 80 of the Organic Act and said advisory board shall be composed of three persons who, on account of previous vocation, employment, occupation or affiliation, can be classed as employers and three persons who, on account of previous vocation, employment, occupation or affiliation can be classed as employees. The terms of office of the members of the advisory board of vocational education first so appointed shall be as follows: one representative each of the employer and employee shall be appointed for one year, two years and three years, respectively. Thereafter, each member shall be appointed for a term of three years. Each member shall hold office until his successor is appointed and has qualified and any vacancy shall be filled by appointment for the unexpired portion of the term. The officer in charge of public instruction in the Territory shall be a member of the advisory board with the right to vote and the officer who has been designated by the department of public instruction as deputy superintendent in charge of vocational education and the officer who has been designated as director of apprenticeship shall be ex-officio members of the advisory board of vocational education without vote. The six members appointed by the governor shall be widely representative of the industries of Hawaii and at least one member appointed by the governor shall be a woman." [L. 1945, c. 219, s. 1.]

Section 2. Section 1893 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

[Sec. 1893. Expenditures.] “The board of vocational education is authorized to make such expenditures for the expenses of the board or for the advisory board for the salaries and expenses of the assistants and supervisors, office assistants and maintenance including printing and such other expenses as in the judgment of the board are necessary for the proper administration of said Act of Congress. The board is also authorized to make expenditures from the special vocational fund of the Territory of amounts necessary for payment of travel expenses of the advisory board in carrying out its functions, and is authorized to pay a per diem of ten dollars to each member of the advisory board attending a meeting thereof when such member loses salary or wages by the attendance of meetings of said advisory board.” [L. 1925, c. 207, s. 5; R. L. 1945, s. 1893; am. L. 1945, c. 219, s. 2.]

Section 3. This Act shall take effect on July 1, 1945.

(Approved May 17, 1945.) **H.B. 263, Act 219.**

Series A-39: ACT 117

REP. '49
S: A-56A219

An Act to Amend Sections 1894, 1895 and 1896 of the Revised Laws of Hawaii 1945, Relating to Vocational Education and Rehabilitation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1894 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

“Sec. 1894. Territorial plan. The territorial board of vocational education shall submit to the federal security administrator, at such times and in such manner as may be necessary and proper for the Territory to obtain payments under the federal vocational rehabilitation Act, a territorial plan for vocational rehabilitation of disabled individuals.” [L. 1935, c. 166, s. 1; R. L. 1945, s. 1894; am. L. 1945, c. 117, s. 1.]

Section 2. Section 1895 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

“Sec. 1895. Cooperation with federal government. In order that the Territory may properly receive the full benefit of the federal vocational rehabilitation Act the territorial board of vocational education shall enter into agreements with the federal security administrator, cooperate with the federal security administrator and do all other acts and things necessary and

proper for the Territory so to receive such benefit." [L. 1935, c. 166, s. 2; R. L. 1945, s. 1895; am. L. 1945, c. 117, s. 2.]

Section 3. Section 1896 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

* "Sec. 1896. **Right to transfer title.** The territorial board of vocational education shall have the right to transfer to disabled individuals in the course of its vocational rehabilitation work the title and ownership of occupational tools and equipment and prosthetic devices required by such individuals for their vocational education or rehabilitation." [L. 1935, c. 166, s. 3; am. L. 1943, c. 226, s. 1; R. L. 1945, s. 1896; am. L. 1945, c. 117, s. 3.]

Section 4. This Act shall take effect upon its approval.

(Approved May 8, 1945.) S.B. 377, Act 117.

[Note: See Sight Conservation and Work with the Blind, Act 113, A-81, post; and Act 125, A-82, post.]

Chapter 34. UNIVERSITY OF HAWAII.

Series A-40: ACT 135

An Act Relating to the University of Hawaii
and Amending Sections 1942, 1943 and 1947 of the
Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1942 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 1942. **Regents appointment, tenure; qualifications; meetings.** The affairs of the university shall be under the general management and control of the board of regents consisting of nine members of whom seven shall be appointed and may be removed by the governor in the manner prescribed by section 80 of the Organic Act and one shall be the superintendent of public instruction, ex officio, and one shall be the president of the university, ex officio. Of the seven members appointed by the governor, one shall be a resident of the county of Hawaii, one a resident of the county of Maui, and one, a resident of the county of Kauai. At least one member shall be a graduate of the university. Except as otherwise provided by statute, territorial officers shall be eligible to appointment and membership. Three of the members shall be appointed for a term to expire March 31, 1945, and four for a term to expire

March 31, 1947; subsequently each member shall be appointed for a term to expire four years after the named expiration date of his term of appointment; but every member may serve beyond the expiration date of his term of appointment until his successor has been appointed and has qualified. Any vacancy occurring before the expiration of a term shall be filled for the unexpired term. The board shall at its first meeting after June 30th, elect a chairman, vice-chairman, and a secretary (who shall not be a member of the board), who shall serve until adjournment of its first meeting after June 30th of the next year or thereafter until their successors are appointed and have qualified and whose election shall be immediately certified by the board to the secretary of the Territory. The president of the university shall act as executive officer of the board. The board shall meet not less often than ten times annually, and may from time to time meet in each of the counties of Hawaii, Maui and Kauai.

The members of the board shall serve without pay but shall be entitled to their traveling expenses within the Territory when attending meetings of the board or when actually engaged in business relating to the work of the board." [L. 1919, c. 203, s. 2; R. L. 1925, s. 401; R. L. 1935, s. 821; am. L. 1943, c. 133, ss. 2, 3, 4; R. L. 1945, s. 1942; am. L. 1945, c. 135, s. 1.]

Section 2. Section 1943 of said Revised Laws is hereby amended by inserting in said section between the second and third sentences thereof, a new sentence to read: "It shall have power to authorize any officer elected or appointed by it to approve and sign on its behalf any voucher or other document which the board shall have power to approve and sign."

Section 3. Section 1947 of said Revised Laws is hereby amended by substituting for the word "regents" in the fourth line of said section the phrase "regents or by an officer elected or appointed by the board under section 1943 and authorized by the board to approve such vouchers on behalf of the board."

Section 4. This Act shall take effect upon its approval.

(Approved May 10, 1945.) S.B. 346, Act 135.

Note: As so amended, § 1943 and § 1947 read:

"Sec. 1943. Powers of regents. The board of regents shall have general management and control of the affairs of the university. It shall have the power to appoint a treasurer and such other officers as it deems necessary, and to require them to give bonds in such amounts as it may prescribe and in the form prescribed by law for bond of public officers. It shall have power to authorize any officer elected or appointed by it to approve and sign on its behalf any voucher or other document which the board shall have power to approve and sign. It shall have power to purchase or otherwise acquire lands, buildings, appliances and other property for the purposes of the university and expend such sums of money as may be from time to

time placed at the disposal of the university from whatever source. All lands, buildings, appliances and other property so purchased or acquired shall be and remain the property of the Territory to be used in perpetuity for the benefit of the university.

The board is directed to charge, in addition to the usual maintenance fees, a tuition fee of one hundred dollars a year. The board shall, however, have power within its discretion, to waive entirely or to reduce such tuition fee in cases of students upon whom the payment of such a fee would work an undue hardship.

The official name of the board shall be Board of Regents, University of Hawaii, and the board shall adopt and use a common seal by which all official acts shall be authenticated. [L. 1919, c. 203, s. 3; R. L. 1925, s. 402; am. L. 1929, c. 203, s. 1; L. 1932, 1st, c. 15, s. 1; R. L. 1945, s. 1943; am. L. 1945, c. 135, s. 2.]

[Bonds, R. L. 1945, ss. 483, 497. Power of regents to contract with the trustees of Punahou school for construction of buildings, see L. 1943, c. 55, omitted.]

"Sec. 1947. Appropriations; accounts; reports. Moneys appropriated by the legislature for the university shall be payable by the territorial treasurer, upon warrants issued by the territorial auditor, upon vouchers approved by the board of regents or by an officer elected or appointed by the board under section 1943 and authorized by the board to approve such vouchers on behalf of the board. All moneys received by or in behalf of the board or the university, other than those received from the United States government or other governments, shall be paid into the territorial treasury, and all such moneys are appropriated for the use of the university. The board shall cause to be kept suitable books of account, and shall annually submit to the governor, to be by him submitted to the legislature a statement showing its receipts from all sources, and expenditures for all purposes. [L. 1919, c. 203, s. 9; R. L. 1945, s. 1947; am. L. 1945, c. 135, s. 3.]"

[See Kona Hawaii Experiment Station, L. 1929, c. 155.]

[Note: University lands, appropriation, see Act 168, F-240, post; building plan, Act 169, F-241, post.]

Title 6. HEALTH.

Chapter 35. BOARD OF HEALTH.

Series A-41: ACT 209

An Act Relating to Agents and Inspectors of the Board of Health, and Making an Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2010 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 2010. Agents and inspectors. There shall be appointed by the president of the board of health, subject to confirmation by the board, a suitable number of agents and inspectors in

such localities as may be necessary, whose duty it shall be to carry into effect all laws and regulations for the public health, and such ordinances relating to public health as the board may direct." [P. C. 1869, c. 59, s. 3; am. L. 1925, c. 34, s. 2; R. L. 1935, s. 902; am. L. 1937, c. 122, s. 3; am. L. 1943, c. 43, s. 1(6); R. L. 1945, s. 2010; am. L. 1945, c. 209, s. 1.]

Section 2. There are hereby appropriated for the biennial period ending June 30, 1947 out of the general fund of the Territory the following sums, or so much thereof as may be necessary, to supplement the appropriations made for the division of pure food and drugs of the board of health by the general appropriation act for said biennial period, and to be subject to the provisions of said general appropriation act, to wit:

| | |
|--|-------------|
| Division of pure food and drugs..... | \$69,480.00 |
| A. Personal services, for new positions for food inspection and related services performed by the city and county of Honolulu during the biennial period 1943-1945 | 54,240.00 |
| B. Other current expenses | 3,240.00 |
| C. Equipment | 12,000.00 |

Section 3. This Act shall take effect on July 1, 1945.

(Approved May 17, 1945.) H.B. 331, Act 209.

[Note: Burial vouchers, veterans' funerals, signature by agent of board of health, see Act 198, E-210, post.]

Series A-42: ACT 116

An Act to Amend Chapter 35 of the Revised Laws of Hawaii 1945, Relating to the Board of Health and Its Powers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 35 of the Revised Laws of Hawaii 1945 is hereby amended as follows:

a. By amending section 2012 thereof:

(1) By inserting immediately after the comma immediately after the word "publication" in the third line of said section the word "which";

(2) By substituting a comma for the word "and" immediately following the word "persons" in the fourth line.

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b. By amending section 2015 thereof:

(1) By substituting for the words "mosquito larvae exist" in the fifth line of said section the words "mosquitoes breed or may breed";

(2) By amending the paragraph numbered 3 in said section to read as follows:

"3. Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, water courses, areas, and alleys;";

(3) By substituting for the term "Poisonous drugs" in the paragraph numbered 15 in said section the term "Poisons";

(4) Substituting a semi-colon for the period at the end of the paragraph numbered 16 in said section;

(5) By adding to, and at the end of, said section 2015 new paragraphs to be numbered and to read as follows:

"17. Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;

"18. Restaurants, food shops and stores, lunch wagons, lunch counters, soda fountains, vehicles used for the sale or distribution of food, and other places and things in or on which food, whether cooked or uncooked, is sold or offered for sale, or distributed or offered for distribution."

[Note: Sec. 2016 amended by Act 140, A-43, post.]

c. By amending section 2017 thereof:

(1) By substituting for the phrase "midwives, laboratory technicians" in the fifth line of said section the phrase "midwives, masseurs, masseuses, laboratory directors, laboratory technicians";

(2) By substituting for the word "revoke" in the eighteenth line of said section the words "revoke or suspend";

(3) By substituting for the word "revoked" in the twenty-third line of said section the words "revoked or suspended".

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) S.B. 289, Act 116.

Note: As so amended, §§ 2012, 2015 and 2017 read:

"Sec. 2012 Publication; validation of existing rules and regulations. All rules and regulations made by the board shall be published in a newspaper of general circulation in the Territory and, upon such publication

which shall constitute legal notice thereof to all persons, shall have the force and effect of law. All rules and regulations made prior to May 1, 1939, by the board of health, which, had the provisions of this section been in effect at that time, would have been valid, are hereby approved, ratified and confirmed. This section shall not invalidate any rule or regulation made prior to May 1, 1939, which, under the general law then in effect, would otherwise be valid. [P. C. 1869, c. 59, s. 7; R. L. 1935, s. 905; am. L. 1939, c. 136, s. 1; R. L. 1945, s. 2012; am. L. 1945, c. 116, s. 1 (a).]"

"Sec. 2015. **Subjects of, generally.** The board, with the approval of the governor, may make such regulations as it shall deem necessary for the public health and safety respecting:

1. **Nuisances**, foul or noxious odors, gases or vapors, water in which mosquitoes breed or may breed, sources of filth, causes of sickness or disease, within the respective districts of the Territory, and on board of any vessel;

2. **Adulteration** and misbranding of food or drugs;

3. **Location**, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, water courses, areas, and alleys;

4. **Privy vaults** and cesspools;

5. **Fish** and fishing;

6. **Interments** and dead bodies;

7. **Disinterments** of dead human bodies, including the exposing, disturbing or removing of such bodies from their place of burial or the opening, removing or disturbing after due interment of any receptacle, coffin or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;

8. **Cemeteries** and burying grounds;

9. **Laundries**, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bath-houses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; **provided**, however, that nothing in this chapter contained shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where such laundering or sterilization is done in an efficient and sanitary manner. [L. 1933, c. 73, s. 1; R. L. 1935, s. 1130.]

10. **Bakeries**, poi shops, abattoirs, stables, **fish, meat or vegetable stores** or markets;

11. **Hotels**, lodging houses, tenements, **hospitals**, children's boarding homes, maternity homes, convalescent homes;

12. **Laboratories**;

13. Any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on;

14. **Milk**;

15. **Poisons**;

16. **Pig and duck ranches;**

17. Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;

18. **Restaurants**, food shops and stores, lunch wagons, lunch counters, soda fountains, vehicles used for the sale or distribution of food, and other places and things in or on which food, whether cooked or uncooked, is sold or offered for sale, or distributed or offered for distribution. [P. C. 1869, c. 59, ss. 4-6; am. L. 1905, c. 42, s. 1; am. L. 1911, c. 132, s. 2; am. L. 1913, c. 63, s. 1; am. L. 1919, c. 235, s. 1; R. L. 1925, s. 912; R. L. 1935, pt. of ss. 904 and 1130; am. L. 1937, c. 122, s. 4; am. L. 1937, c. 197, s. 1; am. L. 1941, c. 18, s. 1; R. L. 1945, s. 2015; am. L. 1945, c. 116, s. 1 (b).]"

[See R. L. 1945, ss. 2709-2710, approval of location, certain businesses. R. L. 1935, ss. 921, 1131, 1132, omitted in view of penalty provided in this c. For county licenses see: **butcher**, slaughter of beef and pork, ss. 7040 ff.; **food products**, s. 7073; **laundries**, ss. 7075, 7121; **lodging houses**, **hotels**, **restaurants**, ss. 7077 ff.; **milk**, ss. 7085 ff.; **peddlers**, ss. 7102 ff., 7116, cc. 141, 151; **poisonous drugs**, ss. 7105 ff.; **tobacco**, s. 7128. **Fish and fishing**, R. L. 1945, c. 19.]

"Sec. 2017. **Regulation of certain occupations.** (a) The board of health, with the approval of the governor, shall have power to prescribe such rules or regulations as it shall deem necessary for the public health or safety respecting:

(1) The occupations or practices of **midwives**, **masseurs**, **masseuses**, **laboratory directors**, **laboratory technicians**, **physiotherapists**, **chiroprodists**, and **itinerant vendors of medicines or drugs or devices**; (2) the health, education, training, experience, habits, qualifications or character of persons to whom certificates of registration or permits for such occupations or practices may be issued; (3) the health, habits, character, practices, standards or conduct of persons holding such certificates or permits; or (4) the grounds or causes for revoking or suspending such certificates or permits. Such rules or regulations shall have the force and effect of law.

(b) **Certificates or permits.** It shall be unlawful for any person to engage in or attempt to engage in or to follow any of the occupations or practices referred to in this section, unless he shall first obtain and hold a valid unrevoked certificate of registration or permit under such rules or regulations as the board of health shall prescribe.

(c) **Revocation of certificates or permits.** The board of health may revoke or suspend any certificate of registration or permit issued under the provisions of this section or heretofore issued upon proof to its satisfaction of a violation of any rule or regulation of the board on the part of any person holding a certificate or permit; **provided**, however, that no such certificate or permit shall be revoked or suspended except upon due notice to the person holding the same and he shall be given an opportunity to be heard and present evidence in his own defense. [L. 1941, c. 87, ss. 1, 2, 3; R. L. 1945, s. 2017; am. L. 1945, c. 116, s. 1 (c).]"

[**Beauty culture**, R. L. 1945, c. 36; **eggs**, ss. 1303-1310; **embalmers**, c. 58; **food products**, c. 20, ss. 1301-1316, and ss. 7073 ff.; **laundries**, s. 2015 and note; **poisons**, cc. 49, 56, and ss. 7105 ff.; **narcotics**, c. 49. Regulation void when? 21 H. 56; cited, 21 H. 411.]

Series A-43: ACT 140

AM. '49
Sr. A-43A-1

An Act to Amend Section 2016 of the Revised Laws of Hawaii 1945 Authorizing the Board of Health to Prescribe Rules and Regulations Relating to Barbers, Hairdressers, Cosmeticians, Cosmetologists, Beauticians, and Tattoo Artists, and the Carrying on of Their Occupations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2016 of the Revised Laws of Hawaii 1945 is hereby amended to read:

"Sec. 2016. Barbers, hairdressers, cosmeticians, cosmetologists, beauticians and tattoo artists. The board of health, with the approval of the governor, shall be authorized to prescribe rules and regulations which it shall deem necessary for the public health and safety relative to barbers, hairdressers, cosmeticians, cosmetologists, beauticians, and tattoo artists, and the carrying on of their occupations." [L. 1907, c. 70, s. 1; R. L. 1925, s. 1020; R. L. 1935, s. 920; am. L. 1943, c. 43, s. 5(a); R. L. 1945, s. 2016; am. L. 1945, c. 140, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 11, 1945.) H.B. 639, Act 140.

Chapter 39. DENTISTRY.

Chapter 40. DENTAL HYGIENISTS.

Series A-44: ACT 118

AM. '49
Sr. A-44A-17

An Act to Amend Chapters 39 and 40 of the Revised Laws of Hawaii 1945, Relating to Dentists and Dental Hygienists. *See S. L. 1947 Act 118*

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2159 of chapter 39 of the Revised Laws of Hawaii 1945 is hereby amended by:

(a) Substituting for the two paragraphs constituting lines 31 to 35 inclusive of section 2159 of the Revised Laws of Hawaii 1945 the following:

"The board shall examine all applicants in both theory and practice of dentistry."

(b) Substituting for the phrase "under the employ and supervision of the department of public instruction, of the board of health, or of a legally incorporated eleemosynary dental in-

firmory or dispensary" in the forty-fourth, forty-fifth and forty-sixth lines thereof the words "in the employment of the Territory or any county, or any legally incorporated eleemosynary dispensary or infirmary, private school, or welfare center"; and

(c) Substituting for the phrase "in the employ and under the supervision of the department of public instruction, board of health, or such eleemosynary dental infirmary or dispensary" in the forty-seventh, forty-eighth and forty-ninth lines thereof the phrase "in such employment".

[See § 2159, rewritten at end of this Act.]

Section 2. Section 2182 of chapter 40 of the Revised Laws of Hawaii 1945 is hereby amended by:

(a) Substituting for the phrase "under the employ of the department of public instruction, or the board of health" in the third and fourth lines thereof the phrase "in the employment of the Territory or any county"; and

(b) Substituting for the phrase "in the employ of the department of public instruction, board of health or legally incorporated eleemosynary dispensary or infirmary, private school or welfare center" in the sixth, seventh and eighth lines thereof the words "in such employment".

[See § 2182, rewritten at end of this Act.]

Section 3. Section 2183 of said chapter 40 is hereby amended by:

(a) Substituting for the phrase "the department of public instruction, or the board of health" in the third and fourth lines thereof the phrase "the Territory or any county"; and

(b) Substituting for the word "Territory" in the eleventh line thereof the phrase "Territory or any county".

[See § 2183, rewritten at end of this Act.]

Section 4. This Act shall take effect upon its approval.

(Approved May 8, 1945.) H.B. 271, Act 118.

Note: As so amended, §§ 2159, 2182 and 2183 read:

"Sec. 2159. Application, examination, time; fee; temporary license. Any person of the age of twenty-one years or more, who is a citizen of the United States, and has been a resident of the Territory for at least one year, and who is of good moral character, shall be eligible to take an examination before the board of examiners upon complying with the following requirements:

Applications for examination shall be made out and filed in writing with the secretary of the board and each such application shall be accompanied by a fee of twenty-five dollars, which shall be retained by the board.

Each applicant shall file, in writing, with the secretary at least sixty days prior to the date selected by the board for such examination the following credentials:

1. A diploma or certificate of graduation from an American dental college recognized and approved by the board;

2. A diploma or other proper certificate from an accredited high school certifying that such applicant has had scholastic preparation or training equivalent in all respects to that usually demanded for graduation by high schools giving a four-year course of instruction in the state or territory in which such high school is located. No such certificate shall be accepted by the board unless it shall be signed by the superintendent of public instruction, or similar corresponding officer, having jurisdiction over such high school; **provided**, however, that an applicant who has been a duly licensed and active practitioner of dentistry in some other state of the United States for a period of five years or more may file such license, or proper evidence thereof, in lieu of the high school certificate referred to;

3. A certificate that the applicant is of good moral character. Certificates of good moral character for applicants who are licensed in some other state of the United States shall bear the signatures and seals of the secretary of the board of dental examiners, and the secretary of the state dental association of that state;

4. A recent unmounted photograph of the applicant.

The board shall examine all applicants in both theory and practice of dentistry.

The requirements for the practical examination in operative and prosthetic dentistry shall be decided upon and announced to the applicant on the day selected for beginning the theoretical examination.

All instruments, materials and patients must be supplied by the applicant. An engine and chair shall be furnished by the board.

Two examinations shall be held each year, in July and December; **provided**, however, that the board may issue without examination to any person qualified to be examined as herein set forth a temporary license to practice dentistry in the employment of the Territory or any county, or any legally incorporated eleemosynary dispensary or infirmary, private school, or welfare center; such temporary license shall remain in force only while the person to whom such license is issued shall be in such employment and such temporary license shall be automatically canceled when such person shall have been examined by the territorial board of examiners and it shall, further, be subject to revocation by the board at any time. [L. 1903, c. 40, s. 5; am. L. 1920, c. 40, s. 5; am. L. 1921, c. 32, s. 2; am. L. 1923, c. 218, s. 1; R. L. 1925, s. 1073; am. L. 1927, c. 150, s. 1; R. L. 1935, s. 988; am. L. 1937, c. 220, s. 4; R. L. 1945, s. 2159; am. L. 1945, c. 118, s. 1.]”

[Board has quasi-judicial powers, decisions as to qualifications cannot be controlled by mandamus, unless evidence admits of but one conclusion, that candidate passed required grade, 25 H. 445, 452. See, 31 H. 625, 52 F. 2d 411. Cited: 29 H. 422.]

“**Sec. 2182. Temporary license.** The board may issue, without examination, to any person qualified as aforesaid to be examined, a temporary license to practice as a dental hygienist in the employment of the Territory or any county, or any legally incorporated eleemosynary dispensary or infirmary, private school or welfare center; such temporary license shall be in force only while such dental hygienist is in such employment, and shall automatically be canceled when such dental hygienist shall have been examined by the board, and shall be subject to revocation by the board

at any time. [L. 1920, c. 7, s. 2; R. L. 1925, s. 1084; am. L. 1925, c. 33, pt. of s. 1; am. L. 1927, c. 149, s. 2; R. L. 1935, s. 1001; R. L. 1945, s. 2182; am. L. 1945, c. 118, s. 2.]”

“Sec. 2183. Employment of and practice by dental hygienists. Any licensed dentist, legally incorporated eleemosynary dental dispensary or infirmary, private school or welfare center, the Territory or any county, may employ licensed dental hygienists. A dental hygienist may clean teeth, performing only such operations on the teeth as are cleansing and may use such mouth washes as are approved by the board of dental examiners, but shall not perform any repair work or the preparation thereof, or any other operation on the teeth or tissues of the mouth. He may operate in the office of any licensed dentist, or legally incorporated eleemosynary dental dispensary or infirmary, private school or welfare center, or in any building owned or occupied by the Territory or any county but only under the aforesaid employment and under the direct or general supervision of a licensed dentist. [L. 1920, c. 7, s. 3; R. L. 1925, s. 1085; am. L. 1925, s. 33, pt. of s. 1; R. L. 1945, s. 2183; am. L. 1945, c. 118, s. 3.]”

[Note: See dental hygienists in schools, R. L. 1945, s. 1721, amended Act 231, A-32, ante.]

Chapter 41. FOOD, ETC.

Series A-45: ACT 101

An Act to Require the Enrichment of Bread and Flour by the Addition of Certain Vitamins and Minerals and to Prescribe the Methods of Enrichment; and to Fix Penalties for Violation of the Same.

Be it Enacted by the Legislature of the Territory of Hawaii:

WHEREAS there exists a widespread deficiency of certain ingredients in foods necessary to the health and well-being of the people, it is necessary and advisable to protect so far as may be possible the health of the people of this Territory against such deficiency by providing for the addition of such necessary ingredients, normally present in wheat, to certain kinds of flour and bread. In the accomplishment of such purposes, it is necessary and advisable to promote uniformity in the laws applicable to both interstate and intrastate sales of such foods, and to that end to conform to the definitions and standards of identity and the labeling requirements for such foods now or hereafter promulgated by federal authorities pursuant to the provisions of the Federal Food, Drug and Cosmetic Act.

[ENRICHMENT OF BREAD AND FLOUR]

[Sec. 2246.01.] Section 1. **[Definitions.]** When used in this Act, unless the context otherwise requires:

(a) The term "flour" includes and shall be limited to the foods defined as (1) flour, white flour, wheat flour, plain flour, (2) bromated flour, (3) self-rising flour, self-rising white flour, self-rising wheat flour, and (4) phosphated flour, phosphated white flour and phosphated wheat flour, in the definitions and standards of identity promulgated by the Federal Security Agency under date of May 26, 1941 (Volume 6, Federal Register, pages 2574 to 2582 inclusive), or as they may be amended, but does not include special flours not used for bread, roll, bun or biscuit baking, such as specialty cake, pancake and pastry flours.

(b) The term "enriched" as applied to flour (as above defined), means the addition to flour of the vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of identity of enriched flour, or enriched bromated flour, or enriched self-rising flour, as the case may be, as fixed and established by order of the Federal Security Agency on July 1, 1943 (Volume 8, Federal Register, pages 9115-9116), or as the same may be from time to time amended or modified.

(c) "White bread" means any bread, whether baked in a pan or on a hearth or screen, which is commonly known or usually represented and sold as white bread, including, but not restricted to, Vienna bread, French bread, and Italian bread.

(d) "Rolls" includes plain white rolls and buns of the semi-bread dough type, such as soft rolls, hamburger, hot dog, Parker House, etc., hard rolls, such as Vienna, Kaiser, etc., all made without fillings or icings, but shall not include yeast-raised sweet rolls or sweet buns, cinnamon rolls or buns, butterfly rolls, etc.

(e) The term "the board" means the board of health of the Territory of Hawaii.

(f) The terms "commissioner" and "deputy commissioners" mean the food commissioner and deputy food commissioners appointed under chapter 41, Revised Laws of Hawaii 1945.

(g) The term "person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, or an unincorporated organization to the extent engaged in the commercial manufacture or sale of flour, white bread or rolls. [L. 1945, c. 101, s. 1.]

[Sec. 2246.02.] Section 2. **[Flour must be enriched; exceptions.]** It shall be unlawful for any person to manufacture, mix, compound, sell or offer for sale in this Territory, for human consumption therein, any flour (as defined in Section 1)

unless the same shall be enriched (as above defined): **provided**, however, that the terms of this section shall not apply to flour sold to bakers or other commercial secondary processors if, prior to or simultaneously with delivery, the purchaser furnishes to the seller a certificate of intent in such form as the board of health shall by regulation prescribe certifying that such flour shall be used only in the manufacture, mixing or compounding of flour or white bread or rolls enriched to meet the requirements of this Act or of products other than flour or white bread or rolls. It shall be unlawful for any such purchaser so furnishing any such certificate of intent to use the flour so purchased in any manner other than as stated in such certificate. [L. 1945, c. 101, s. 2.]

[Sec. 2246.03.] Section 3. [Bread, rolls, buns, standard for.] It shall be unlawful for any person to manufacture, bake, sell or offer for sale, in this Territory, for human consumption therein, any white bread or rolls unless the same conforms to the definition and standard of identity then in effect for enriched bread, and enriched rolls or enriched buns, as fixed and established by order of the Federal Security Agency, or other appropriate federal agency or officer, pursuant to the provisions of the Federal Food, Drug and Cosmetic Act: **provided**, however, that if during any period after the effective date of this Act no such order of any such federal agency or officer fixing and establishing a definition and standard of identity for enriched bread, and enriched rolls or enriched buns, shall be in effect, it shall be unlawful for any person during any such period to manufacture, bake, sell or offer for sale in this Territory, for human consumption, any white bread or rolls unless the same conforms to the proposed definition and standard of identity for enriched bread and enriched rolls or enriched buns issued pursuant to the provisions of the Federal Food, Drug and Cosmetic Act under date of August 3, 1943 (Volume 6, Federal Register, pages 10780 to 10788 inclusive). [L. 1945, c. 101, s. 3.]

[Sec. 2246.04.] Section 4. [Flour, wrapped bread, rolls, standard for.] It shall be unlawful to sell or offer for sale, in this Territory, for human consumption therein, any flour or wrapped white bread or rolls meeting the requirements of sections 2 and 3 of this Act which fail to conform to the labeling requirements of the Federal Food, Drug and Cosmetic Act, and the regulations promulgated thereunder, with respect to such product when introduced in interstate commerce; **provided**, this section shall not apply to white bread or rolls which bear no labeling of any kind and which are sold directly to the consumer by the manufacturer thereof. [L. 1945, c. 101, s. 4.]

[Sc. 2246.05.] Section 5. [Enforcement; suspension.] (a) The board, the commissioner and deputy commissioners shall have the power and authority, and shall be charged with the duty of enforcing the provisions of this Act, and shall have, in connection therewith, all the powers and duties conferred and imposed upon them by and pursuant to chapter 41, Revised Laws of Hawaii 1945, and any amendments thereto.

(b) In the event of findings by the board or the commissioner that there is an existing or imminent shortage of any ingredient required by sections 2 or 3 of this Act, and that because of such shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of this Act, the commissioner shall issue an order, to be effective immediately upon issuance, permitting the omission of such ingredient from flour or white bread or rolls; and if he finds it necessary or appropriate, excepting such foods from the labeling requirements of this Act until the further order of the board or the commissioner. Any such findings may be made without hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer. In the absence of any such order of the appropriate federal agency or factual information supplied by it, the board or the commissioner on its or his own motion may, and upon receiving the sworn statements of ten (10) or more persons subject to this Act that they believe such a shortage exists or is imminent shall, within twenty (20) days thereafter hold a public hearing with respect thereto at which any interested person may present evidence; and shall make findings based upon the evidence presented. The commissioner shall publish notice of any such hearing at least ten (10) days prior thereto.

Whenever the commissioner has reason to believe that such shortage no longer exists, he shall hold a public hearing, after at least ten (10) days' notice shall have been given, at which any interested person may present evidence, and he shall make findings based upon the evidence so presented. If his findings be that such shortage no longer exists, he shall issue an order to become effective not less than thirty (30) days after publication thereof, revoking such previous order; provided, however, that undisposed flour stocks of flour on hand at the effective date of such revocation order, or flour manufactured prior to such effective date, for sale in this Territory may thereafter be lawfully sold or disposed of.

(c) All orders, rules, and regulations adopted by the board, and all orders of the commissioner pursuant to this Act shall be published in the manner prescribed by section 2012, Revised Laws of Hawaii 1945, and, within the limits specified by

this Act, shall become effective upon such date as the board or the commissioner shall fix.

(d) For the purposes of this Act, the commissioner and any of his deputies are authorized to take samples for analysis and to conduct examinations and investigations, and they shall have free access at all reasonable hours and the right to enter in and upon any factory, mill, warehouse, shop, or establishment where flour, white bread or rolls are manufactured, processed, packed, sold, or held, or any vehicle being used for the transportation thereof, and to inspect any such place or vehicle and any flour, white bread or rolls therein, and all pertinent equipment, materials, containers and labeling.

(e) If any person manufacturing, processing, packing, keeping for sale, exhibiting for sale, or offering for sale, any flour, white bread or rolls included within the provisions of this Act shall refuse to furnish the commissioner or any of his deputies, upon demand, either personal or in writing, a sufficient sample for the analysis of any such flour, white bread or rolls, which is or are in his possession, the commissioner or any of his deputies tendering the market price therefor, such refusal shall be prima facie evidence that such flour, white bread or rolls is or are not enriched as required by this Act. [L. 1945, c. 101, s. 5.]

[Sec. 2246.06.] Section 6. [Penalty.] Any person who violates any of the provisions of this Act or the orders, rules, or regulations of the board under authority thereof, or the orders of the commissioner under section 5 (b) hereof, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than five hundred dollars, or to imprisonment for not more than one hundred days, or both such fine and imprisonment, for each and any offense. [L. 1945, c. 101, s. 6.]

Section 7. The sum of \$5,000.00, or so much thereof as may be necessary for the purposes of this Act, is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated.

Section 8. This Act shall take effect upon its approval, but the governor is authorized, by public proclamation, to suspend its operation for such period as he shall deem proper during the continuance of the present war.

(Approved May 8, 1945.) S.B. 224, Act 101.

Chapter 42. INFECTIOUS, ETC., DISEASES.

Series A-46: ACT 191

An Act to Amend Section 2305 of the Revised Laws of Hawaii 1945, Relating to the Board of Health, the Physicians of the Board of Health, and the Physicians of the Counties, and to Antitoxins, Antiserums, Vaccines, Biologics, and Drugs, and to the Purchasing and Keeping on Hand Thereof by the Board of Health, the Administration and Furnishing Thereof by the Board of Health or by Physicians of the Board of Health or of the Counties to Certain Persons and the Requirement of Payment Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2305 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 2305. Antitoxins, antiserums, vaccines, biologics and drugs. The board is authorized and directed to purchase from time to time out of moneys which may be available to it therefor, and to keep on hand and available for administration under this section in the various counties to persons unable to pay for them antitoxins, antiserums, vaccines and other biologics and drugs of types and in a supply sufficient for the public health, welfare, and safety.

Such antitoxins, antiserums, vaccines, biologics, and drugs shall by any physician of the board or of any such county be administered free of charge to any person who is in need of them and is unable to pay for them or shall be furnished free of charge to the attending physician of such person for use in the treatment of such person; **provided**, however, that the person so benefited, or his estate or personal representatives, if subsequently able to do so, may be required by the board to pay for any such antitoxin, antiserum, vaccine, biologic, or drug furnished free of charge to or for him under this chapter." [L. 1931, c. 197, s. 1; R. L. 1945, s. 2305; am. L. 1945, c. 191, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) **S.B. 255, Act 191.**

[See Act 171, **Act-49**, post, vaccination, etc.]

Series A-47: ACT 105

An Act Relating to Reports of Serologic Tests for Syphilis, and Amending Section 2311 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2311 of the Revised Laws of Hawaii 1945 is hereby amended by amending the penultimate sentence thereof to read as follows:

"The duplicate copy of such report shall be forwarded to the board of health."

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) S.B. 288, Act 105.

Note: As so amended, § 2311 reads:

"Sec. 2311. Serologic tests; reports. For the purposes of this subtitle a standard serologic test shall be a test for syphilis approved by the board of health of the Territory, and shall be made at a laboratory approved to make such tests by the board of health. Such laboratory tests as are required by this subtitle shall be made on request without charge at the board of health laboratories. The board of health shall issue a 'laboratory report form' to be distributed upon application to all laboratories approved to make tests called for in this section. Any laboratory making any such tests shall prepare the report thereof in triplicate. The original of such report shall be transmitted by the laboratory making such test to the certifying physician. The duplicate copy of such report shall be forwarded to the board of health. The triplicate shall be retained by the laboratory in its files and shall be open at any time for inspection by an authorized representative of the board of health. [L. 1943, c. 219, s. 2; R. L. 1945, s. 2311; am. L. 1945, c. 105, s. 1.]"

[See Act 136, D-137, pre-marital examination new § 12349.01, post.]

Series A-48: ACT 66

An Act to Amend Section 2317 of the Revised Laws of Hawaii 1945, Relating to Spitting in Certain Places.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2317 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 2317. Spitting prohibited. No person shall spit or expectorate upon any railway passenger coach or other public conveyance, sidewalk, or any building mentioned in section 2316, except in a spittoon or cuspidor provided for such pur-

pose." [L. 1911, c. 118, s. 2; R. L. 1925, s. 939; R. L. 1935, s. 1099; R. L. 1945, s. 2317; am. L. 1945, c. 66, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 28, 1945.) **H.B. 598, Act 66.**

Series A-49: ACT 171

An Act to Amend Chapter 42 of the Revised Laws of Hawaii 1945, Relating to Infectious and Communicable Diseases by Requiring Immunization Against Certain Epidemic Diseases.

*Am. 52
A-51, act*

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 42 of the Revised Laws of Hawaii 1945 is hereby amended by amending sections 2331 to 2338 thereof, inclusive, and the headnote thereto, to read as follows:

"VACCINATION AND IMMUNIZATION

Sec. 2331. Vaccination against smallpox. Every person residing within the Territory or remaining in the Territory for a period of more than ninety (90) days who is over the age of six months and not successfully vaccinated against smallpox shall be successfully vaccinated against the same. Such vaccination shall be effected within one month after the same shall be required hereunder. Such vaccination shall not be considered successful unless upon examination or the presentation of satisfactory evidence a licensed physician or authorized representative of the board of health shall certify that an immune, accelerated or primary recation resulted therefrom. [L. 1945, c. 171, pt. of s. 1.]

Sec. 2332. Vaccination against typhoid and paratyphoid fevers. Every person residing within the Territory or remaining in the Territory for a period of more than ninety (90) days who is over the age of three years and not vaccinated against typhoid and paratyphoid fevers shall be so vaccinated. A course of doses for the purpose of effecting such vaccination shall be begun within one month after the same shall be required hereunder. Such vaccination shall consist of three doses of combined typhoid-paratyphoid vaccine administered not less than five days apart nor more than fifteen days apart. Children under fifty pounds in weight shall receive one-half the normal adult dosage. [L. 1945, c. 171, pt. of s. 1.]

Sec. 2333. Immunization against diphtheria. Every person residing within the Territory or remaining in the Territory for

a period of more than ninety (90) days who is over the age of nine months and under the age of ten years and not immunized against diphtheria shall be so immunized. A course of doses shall be instituted for the purpose of effecting such immunization within one month after the same shall be required hereunder. Such immunization shall consist of two doses of diphtheria toxoid administered not less than four weeks apart nor more than eight weeks apart. [L. 1945, c. 171, pt. of s. 1.]

Sec. 2334. Performance of vaccination and immunization. Any vaccination or immunization required by sections 2331, 2332 or 2333 may be performed by a licensed physician or by an authorized representative of the board of health. Upon satisfactory completion of any vaccination or immunization, a certificate shall be signed and issued by the physician or by a representative of the board of health, as the case may be, to the person vaccinated or immunized, or to his parent or guardian, setting forth the name and address of such person, the serial number of the Territory of Hawaii identification certificate issued to such person, the date of such vaccination or immunization and, in the case of any smallpox vaccination, the result thereof. Such person shall promptly thereafter present his Territory of Hawaii identification certificate to an authorized representative of the board of health, who shall affix thereto a stamp setting forth the performance of such vaccination or immunization. [L. 1945, c. 171, pt. of s. 1.]

Sec. 2335. Exemptions. In the event that any licensed physician or an authorized representative of the board of health shall certify that by reason of existing illness, infirmity, age or other stated cause the health of any person required hereby to be vaccinated or immunized would be endangered by such vaccination or immunization such person shall be exempt from such vaccination or immunization. The Territory of Hawaii identification certificate of any person so exempted shall be promptly presented by such person to an authorized representative of the board of health who shall affix to it a stamp showing such exemption. [L. 1945, c. 171, pt. of s. 1.]

Sec. 2336. Duplicate identification certificates. In the event that a duplicate Territory of Hawaii identification certificate shall be issued to any person he shall promptly present the same to an authorized representative of the board of health who shall affix thereto a stamp or stamps showing the vaccination, immunization or exemption of such person. [L. 1945, c. 171, pt. of s. 1.]

Sec. 2337. Forms and procedures. The board of health shall prescribe forms and procedures for effectuating the provisions

of this subtitle; may establish immunization stations at convenient locations throughout the Territory for the purpose of performing vaccinations and immunizations, and of affixing to registration certificates the required stamps; and shall maintain roster stations at each of the cities of Honolulu, Hilo, Wailuku, Lihue, and Kaunakakai, at each of which stations shall be maintained a complete roster of all vaccinations and immunizations performed upon the island where such station is located. [L. 1945, c. 171, pt. of s. 1.]

Sec. 2338. [Duty of adult, or of parent or guardian.] It shall be the duty of every person required to be vaccinated or immunized, or to do any other act, unless a minor or incompetent, to cause such vaccination or immunization or other act to be performed. If such person shall be a minor or incompetent, it shall be the duty of his parent or guardian having his care, custody and control to cause such vaccination or immunization or other act to be performed." [L. 1945, c. 171, pt. of s. 1.]

Section 2. Said chapter 42 is hereby further amended by repealing **sections 2339 and 2340** thereof.

Section 3. This Act shall take effect upon its approval.

(Approved May 15, 1945.) **H.B. 473, Act 171.**

[See Act 191, A-46, ante, vaccines, etc.]

Chapter 43. LEPERS.

Series A-50: ACT 159

An Act to Amend Section 2423 of the Revised Laws of Hawaii 1945, Relating to Lepers; Hospitals and Settlement.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2423 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 2423. Labor of patients by consent. The board or its agents, with consent of patients, may require the performance of such reasonable amount of labor or service as may be approved by the attending physician. The daily pay for such labor or service shall be not less than twenty-five cents (25c) per hour." [P. C. 1869, c. 62, s. 5; am. L. 1929, c. 149, pt. of s. 1; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1945, s. 2423; am. L. 1945, c. 159, s. 1.]

AM. '49
Sr A-76 A277
A-77A 372

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1945.) S.B. 148, Act 159.

[Note: See R. L. 1945, exemption real property tax, ss. 5147, 5150; gross income, s. 5459.]

AM. '49

Sr A-72A53

Hansen's disease

Series A-51: ACT 229

An Act Providing Pensions for all Patient Employees or Patient Laborers at Every Hospital, Settlement and Station Maintained in Hawaii for the Treatment and Care of Persons Affected with Leprosy.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2424.01.] Section 1. [Pensions for patient employees at leper hospitals, etc.] All patient employees or patient laborers at every hospital, settlement and station maintained for the treatment and care of persons affected with leprosy shall be entitled, upon retirement after twenty years or more service with the board of hospitals and settlement, at such hospital, settlement or station, to a pension, payable monthly, in an amount which shall be equal to sixty-six and two thirds per cent of the wage or salary which the patient was receiving at the time of retirement. [L. 1945, c. 229, s. 1.]

Section 2. [Appropriation.] Sufficient funds are hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, to meet the payments provided by this Act.

Section 3. This Act shall take effect upon its approval.

(Approved May 19, 1945.) S.B. 137, Act 229.

Chapter 47. MENTAL HYGIENE BUREAU.

1. '49

-83.A231

1.2. '47

54 acts

Series A-52: ACT 102

An Act to Amend Section 2552 of the Revised Laws of Hawaii 1945, Relating to the Bureau of Mental Hygiene of the Board of Health.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2552 of the Revised Laws of Hawaii 1945 is hereby amended:

(a) By substituting for the words "private hospital" in the fifth line of the paragraph marked (4) in said section 2552 the

phrase "individuals, hospitals, and institutions, whether governmental, charitable, or private,"; and

(b) By substituting for the word "hospital" in the ninth line of said paragraph marked (4) in said section 2552 the phrase "individuals, hospitals, and institutions, whether governmental, charitable, or private,".

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) S.B. 245, Act 102.

Note: As so amended § 2552 reads:

"Sec. 2552. Functions of the bureau; charges for services; detention of patients. The powers, duties and functions of the bureau shall be in accordance with rules promulgated by the board of health, as follows:

(1) To foster and promote a general educational program to acquaint the public with the principles of mental hygiene, and for the prevention of mental illness;

(2) To cooperate, within limits fixed by such rules, with all territorial and county institutions and officials in matters relating to psychiatric problems including (a) consultations, (b) case work in connection with paroled and discharged patients from such institutions when requested by the superintendent or person in charge of any such institution;

(3) To record and compile histories, statistics and other information relating to the work of the bureau; **provided**, that nothing herein contained shall be deemed to supersede the provisions of section 9840 relating to privileged communications;

(4) To conduct an in-patient and out-patient mental hygiene clinic for the examination, study, diagnosis, and treatment of cases of mental illness, and in such connection: (a) to make such arrangements as may be necessary within available appropriations and subject to the provisions of this chapter to maintain such clinic on the island of Oahu at or in conjunction with any individuals, hospitals, and institutions, whether governmental, charitable, or private approved by the board of health; (b) within available appropriations to extend the services of such clinic to other islands as needed by means of visits, resident workers, and other supplementary services, and to make necessary arrangements for needed facilities therefor with any individuals, hospitals, and institutions, whether governmental, charitable, or private approved by the board of health; (c) to determine through the director which cases are appropriate for treatment by the clinic; (d) to make reasonable charges for professional and other personal services rendered to patients, but in making such charges the financial circumstances of the patient shall be taken into consideration; **provided**, that no such charges shall be made where, in the judgment of the director, the same might tend to make the patient a public charge or deprive his dependents of necessary support; (e) to furnish medicines and other supplies with or without expense to any patient as deemed appropriate by the director, but charges for services, medicines and other supplies furnished by any hospital shall be paid by the patient to the hospital, except that in the case of any indigent such charges shall be paid by the county in which he resides.

When any in-patient mental hygiene clinic is conducted, any person who is admitted thereto for examination, study, diagnosis and treatment may be detained therein until he is discharged, or until he is committed or ad-

mitted to the territorial hospital as in chapter 69 provided; but when any such person so admitted for examination, study, diagnosis and treatment, or any other person on his behalf, shall object to his detention therein and shall make written demand on the director for his release, he shall be released unless in the opinion of the director he is insane, and in any event he shall be released after such demand unless within forty-eight hours (Sundays and holidays excluded) from the time of receipt of such demand an application has been made by the director for an order of commitment to the territorial hospital, or an order of temporary commitment to a county detention ward as in chapter 69 provided or to the mental hygiene clinic as the magistrate or judge may decide. [L. 1939, c. 257, pt. of s. 1; am. L. 1941, c. 325, s. 8; R. L. 1945, s. 2552; am. L. 1945, c. 102.]”

Chapter 48. MENTAL INSTITUTIONS, PRIVATE.

Series A-53: ACT 106

An Act to Amend Section 2581 of the Revised Laws of Hawaii 1945 Relating to Private Institutions for the Custody and Treatment of Persons with Mental Disorders, Mental Defectives and Other Incompetent Persons.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2581 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the phrase “the commissioner of public health” in the twenty-first line thereof the phrase “the president of the board of health”.

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) S.B. 292, Act 106.

Series A-54: ACT 103

An Act Relating to Nurses, and Amending Chapter 52 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 52 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

[CHAPTER 52. NURSES.]

“Sec. 2770. Definitions. A person practices nursing within the meaning of this chapter who for compensation (a) performs any service requiring the application of principles of the

biological, physical and social sciences in the attendance on and care of a sick, invalid, or disabled human being hereinafter called 'patient', such as responsible supervision of a patient, requiring skill in observation of symptoms and reactions and the accurate recording of the facts, and carrying out of treatments and medications as prescribed by a licensed physician, and the application of such procedures in such attendance and care as involve understanding of cause and effect of disease and treatment in order to safeguard life and health of a patient and others, which shall constitute 'the theory and practice of nursing' as used in this chapter; or (b) performs such duties as are required in the physical care of a patient and in carrying out of medical orders as prescribed by a licensed physician, requiring an understanding of methods of easing and caring for the patient, but not requiring the scientific understanding and trained skill outlined in (a), which shall constitute 'practical nursing' within the meaning of this chapter.

'Board' when used in this chapter shall mean the board for the licensing of nurses.

'An accredited training school for nurses' within the meaning of this chapter shall constitute one which has been investigated and approved by the board. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2771. Board of licensing, appointment, tenure. The governor shall appoint a board to consist of five members for the licensing of nurses, four of whom shall be nurses of at least five years' experience and holding diplomas from different training schools for nurses giving at least a two years' course in the theory and practice of nursing in a hospital and one of whom shall be a physician on the consulting staff of a hospital maintaining a training school for nurses.

Commencing from July 1, 1917, one member shall be appointed to hold office for one year, one for two years, one for three years, one for four years and one for five years. Upon the expiration of the respective terms of the members, their respective successors shall be appointed for a term of five years. Upon a vacancy occurring in the board, a member shall be appointed to fill such vacancy for the remainder of the unexpired term. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2772. Organization, meetings. The members of the board shall meet annually on the second Tuesday of July in each year and shall elect a chairman and a secretary who shall hold their respective offices for the term of one year. The board shall hold regular meetings in each year, on the second Tuesday of January, April, July and October, and it may hold such additional meetings at such times as it may determine. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2773. Licensing; revocation and suspension of certificates. In order to safeguard life and health, no person shall practice or offer to practice nursing in the Territory of Hawaii for compensation unless licensed or excepted from licensing under this chapter. To receive a license, the applicant shall be required to submit satisfactory proof that he is qualified so to practice. Application for licensing shall be made upon blanks to be furnished by the board and shall be signed and sworn to by the applicant. Each applicant for licensing who shall furnish satisfactory proof that he is at least twenty years of age, is in good physical condition, and in good mental health, is free from any contagious or communicable disease and is of good moral character and mental health shall, upon payment of a fee of five dollars, be examined by the board. Upon such examination and (a) upon being found qualified in the theory and practice of nursing such applicant shall be licensed as a registered nurse with the right to use the title 'registered nurse', and the initials 'R. N.' and shall receive a certificate of such licensing from the board, signed by the chairman and secretary, or (b) upon being found qualified in practical nursing, such applicant shall be licensed as a practical nurse with the right to use the title 'practical nurse', and shall receive a certificate of such licensing from the board, signed by the chairman and secretary.

The board shall have the power to waive the examination of any applicant, otherwise qualified, upon satisfactory proof that the applicant has been registered as a nurse in another jurisdiction and has been graduated from a training school for nurses accredited by the League of Nursing Education.

The board after hearing may, by a vote of a majority of its members, revoke any certificate issued by it and cancel the license of any nurse or suspend such certificate for any of the following causes:

1. Wilful betrayal of a professional secret;
2. Conviction of any offense involving moral turpitude;
3. Habitual intemperance;
4. Habitual use of habit-forming drugs, such as opium, or any of its derivatives, morphine, heroin or cocaine;
5. Gross carelessness or manifest incapacity;
6. Affliction with a contagious or communicable disease.

In case any license is revoked or suspended for any of the causes named, the holder thereof shall be immediately notified in writing by the board of such revocation or suspension.

Every licensed nurse shall, between July 1 and September 1 of each year, renew his certificate by registering with the board and by paying a renewal fee of one dollar. Every certificate that is not so renewed shall expire on September 1, and shall not be renewed except upon the payment of the lapsed fee.

All expenses of the board shall be paid from the fees received by the board under the provisions of this chapter, and no salary or other expenses shall be paid out of the treasury of the Territory and all moneys received by the board shall be held by the treasurer as a special fund for meeting the expenses of the board. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2774. Examinations. Examinations for registered nurse shall be in part in writing and in part in practical work, and shall include the theory and practice of nursing. Due credit shall be given for examinations in special branches. Examinations for practical nurse may be in part in writing, but shall, in the main, be in practical work. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2775. Persons eligible for examination, etc. No person shall be eligible for examination or for licensing as a registered nurse, who shall not furnish satisfactory evidence of having been graduated from an accredited training school for nurses. All applicants for examination must furnish satisfactory evidence of good moral character and of having complied with the provisions of this chapter, relative to qualifications. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2776. Exemption from examination. The board shall have power to license from time to time and upon payment of the fee, without examination, (a) as a registered nurse, a person who has been licensed or registered as a registered nurse elsewhere under laws which, in the opinion of the board, maintain a standard substantially similar to that established under this chapter for registered nurses, and who otherwise meets the standards established by the board, and (b) as a practical nurse, a person who has been licensed elsewhere under laws which in the opinion of the board maintain a standard substantially similar to that established under this chapter and who otherwise meets the standards established by the board.

The board shall also have power, in cases of emergency affecting the health and safety of the community (the existence of which such board shall be entitled, in their discretion, to determine), to waive in writing the requirements of qualifications and examinations established by this chapter, either as to individuals or generally, for a specific time fixed in such waiver.

The board of examiners shall file with the board of health of the Territory, monthly, a complete list of all nurses licensed by the board. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2777. Powers and duties of board. The board shall examine and approve curricula and standards for schools and courses preparing persons for licensing under this Act. It shall provide for surveys of such schools and courses at such time as it may deem necessary or desirable. It shall examine applications for license for practical nurses and determine therefrom and by investigation and examination the individuals' fitness to be entrusted with the care of the sick. It shall examine, license and renew the certificate of license of duly qualified applicants. It shall have power to make investigations concerning all matters touching the enforcement and effect of the provisions of this chapter and the rules and regulations prescribed thereunder, and in the course of such investigations before the board, each member of the board shall have power to administer oaths.

In all investigations made by the board and in all proceedings before it, the board shall have the same powers respecting compelling the attendance of witnesses and the production of documentary evidence and examining witnesses as are possessed by circuit judges at chambers. All subpoenas shall be signed by the chairman of the board.

If any person subpoenaed as a witness to attend before the board, or to produce any books, papers, or records called for by the process of the board, shall fail or refuse to respond thereto, or refuse to answer questions propounded by any member of the board, material to the matter pending before the board, it shall be the duty of any circuit judge, on application by the board, or any member thereof, to compel obedience to any process of the board and to require any witness to answer questions put to him as aforesaid, and to punish as a contempt of court any refusal to comply with the court's order unless good cause is shown therefor. False swearing by any witness before the board shall constitute perjury and shall be punished as such. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2778. Same; reports. The board shall keep a record of the names of all persons registered hereunder, and of all moneys received and disbursed by it. The board shall annually on or before July 1, make a report to the governor of the condition of nursing in the Territory, of all its official acts during the preceding year, and of its receipts and disbursements. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2779. Exceptions. The provisions of this chapter shall not be construed as prohibiting gratuitous nursing by friends or members of the family, or as prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, as long as such persons do not practice nursing within the meaning of this Act, or as prohibiting

nursing assistance in the case of an emergency; nor shall it be construed as prohibiting the practice of nursing by students enrolled in accredited schools of nursing or accredited courses for the training of attendants in the course and scope of their duties, nor by graduates of such schools or courses pending the results of the first licensing examination scheduled by the board following such graduation; nor shall it be construed as prohibiting the practice of nursing in the Territory by any nurse duly licensed or registered in another jurisdiction whose engagement requires him to accompany and care for a patient temporarily residing in the Territory during the period and in the discharge of one such engagement, not to exceed six months in length, provided such person does not represent or hold himself out as a nurse licensed to practice in the Territory, nor shall it be construed as prohibiting the practice by any nurse who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of his official duties. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2780. Penalty. It shall be unlawful for any person to practice, or to offer to practice, nursing in this Territory or to use any title, sign, card, or any device to indicate that such a person is practicing nursing unless such person has been duly licensed and registered under the provisions of this chapter, for the type of nursing, i. e., as a registered nurse or as a practical nurse, which such person practices or offers to practice or uses such device to indicate such practice, or is excepted from the requirement of licensing under the provisions of this chapter. Any person violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars. [L. 1945, c. 103, pt. of s. 1.]

Sec. 2781. Rules and regulations; powers. The board is authorized to adopt and, from time to time, revise such rules and regulations not inconsistent with the law of the Territory, as may be necessary or desirable to enable it to carry into effect the provisions of this Act." [L. 1945, c. 103, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) **S.B. 248, Act 103.**

[Note: Nurses training school, Queen's Hospital, see R. L. 1925, Vol. II, L. 1919, c. 61.]

Chapter 55. PHARMACISTS AND PHARMACY.

Series A-55: ACT 155

P. '49
4-21 AL75

An Act to Amend Chapter 55 of the Revised Laws of Hawaii 1945, by Amending Sections 2901 and 2902 Thereof, Repealing Section 2903 Thereof, Making Unlawful and Subject to Penalties Certain Acts of Persons Not Licensed as Pharmacists or Assistant Pharmacists and the Permitting or Causing of Such Acts by Certain Other Persons, and Authorizing Enforcement of Section 2901.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 55 of the Revised Laws of Hawaii 1945 is hereby amended:

(a) By amending section 2901 thereof to read as follows:

"Sec. 2901. License required. (a) It shall be unlawful (1) for any person not licensed as a pharmacist to conduct or manage any pharmacy, drug store, apothecary shop, or other place of business, for the compounding, dispensing or selling at retail of any drug, pharmaceutical, or medicine, or for the filling of any prescription, (2) for any person not licensed as a pharmacist or assistant pharmacist to compound, dispense or sell at retail any drug, pharmaceutical, or medicine, or to fill any prescription, except under the immediate supervision of a person licensed as a pharmacist, and (3) for any person not licensed as a pharmacist to conduct, manage or keep open for business at retail any store, shop, or other place of business which has over, upon or connected therewith any sign containing any of the words or names 'Apothecary Shop', 'Drug Store', 'Pharmacy', 'Drugs', 'Drug Sundries', 'Drug Preparations', 'Drug Supplies', 'Pharmaceuticals', 'Pharmacy Supplies', 'Medicines', or the like, in any language, or which is advertised in any language as a pharmacy, drug store, apothecary shop, or other place of business for the compounding, dispensing or selling at retail of any drug, pharmaceutical, or medicine, or for the filling of any prescription.

(b) It shall be unlawful for any owner, manager, or employee of any pharmacy, drug or chemical store, apothecary shop, or other place of business to cause or permit any person subject therein to his direction to violate any provision of this section.

(c) This section shall not make it unlawful (1) for any licensed practitioner of medicine, dentistry, osteopathy, or

veterinary to compound, dispense, sell, or deliver any medicines in the course of the treatment of his patients or (2) for any person to sell or deliver or offer to sell or deliver (a) any household remedies which the board of health may by rule or regulation adopted with the approval of the governor find to be in such common use and of such commonly known properties that they may without jeopardizing the public health, safety or welfare be sold by such person under such reasonable conditions as may be required by such rule or regulation or (b) any patent or proprietary drug, pharmaceutical, or medicine which is not a poison." [L. 1903, c. 70, s. 1; am. L. 1923, c. 237, s. 1; am. L. 1933, c. 34, s. 1; R. L. 1935, s. 1410; R. L. 1945, s. 2901; am. L. 1945, c. 155, s. 1(a).]

[Note: For Food and Drugs, see R. L. 1945, c. 41.]

(b) By amending section 2902 thereof to read as follows:

"Sec. 2902. **Penalty; enforcement.** Whoever shall be guilty of any act or omission which is unlawful under section 2901 shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year or by both such fine and such imprisonment. The board of health, the board of pharmacy, and any law enforcement officer of the Territory or of any county shall be authorized to enforce section 2901." [L. 1903, c. 70, s. 14; am. L. 1923, c. 237, s. 2; R. L. 1935, s. 1412; R. L. 1945, s. 2902; am. L. 1945, c. 155, s. 1(b).]

(c) By repealing section 2903 thereof.

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1945.) H.B. 638, Act 155.

Chapter 56. POISONS, SALE OF.

Series A-56: ACT 139

An Act to Amend Chapter 56, Sections 2951 and 2952, of the Revised Laws of Hawaii 1945, Relating to Definition of "Poison" and the Regulation of Poisons and Poison Containers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 56 of the Revised Laws of Hawaii 1945 is hereby amended:

(a) By amending section 2951 thereof to read as follows:

"Sec. 2951. Definition of poison. The meaning of the term 'poison', as used in this chapter, in chapter 55, and in the laws relating to the board of health, shall include any chemical, drug, or preparation which has properties which are commonly considered poisonous or which is capable of affecting the human organism in such a way and to such an extent that its possession, sale, transfer, use or storage shall be found by the board of health in its rules and regulations to require regulation for the public health and safety." [P. C. 1869, c. 88, s. 2; R. L. 1925, s. 1005; am. L. 1931, c. 224, pt. of s. 1; R. L. 1935, s. 1431; R. L. 1945, s. 2951; am. L. 1945, c. 139, s. 1(a).]

(b) By substituting for the phrase "the sale or other disposal of poisons and containers in which poisons have been confined" in section 2952 thereof the phrase "poisons and poison containers".

Section 2. This Act shall take effect upon its approval.

(Approved May 11, 1945.) H.B. 637, Act 139.

Note: As so amended, § 2952 reads:

"Sec. 2952. Sale of poisons. The board of health of the Territory is authorized and directed to make rules and regulations, and to amend the same from time to time in its discretion, subject to the approval of the governor, concerning poisons and poison containers. [P. C. 1869, c. 88, s. 1; am. L. 1872, c. 16, s. 1; R. L. 1925, s. 1004; am. L. 1931, c. 224, pt. of s. 1; R. L. 1935, s. 1430; R. L. 1945, s. 2952; am. L. 1945, c. 139, s. 1 (b).]"

[See R. L. 1945, c. 41, Food, Drugs; s. 11530, poisonous drinks; license, ss. 7105-07.]

Chapter 60. VITAL STATISTICS, ETC.

Series A-57: ACT 64

An Act to Amend Chapter 60 of the Revised Laws of Hawaii 1945 to Include a New Section Thereof to Require, Under Certain Conditions, the Registration of Lost or Abandoned Children and to Provide, with Certain Exceptions, for a Birth Record of Such Children.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 60 of the Revised Laws of Hawaii 1945 is hereby amended to include a new section to be numbered section §120.01 and to read as follows:

"Sec. 3120.01. Registration of abandoned or lost children. Any person who shall find an abandoned or lost child and shall not thereupon within forty-eight hours return such child to its parent, parents, or guardian shall within ten days of the date of finding such child file with the registrar of the judicial district in which he shall have found such child a certificate, on a form which shall be prescribed by the board, stating the sex, race, estimated date of birth, and place of finding of such child, the name, if any, of, or assigned to, such child, and the names, if known, of the parent, parents, or guardian of such child. On being filed under this section the certificate shall be the birth record of such child, unless, however, it shall appear that a birth certificate for such child has been filed under section 3120 or that some other lawful birth record for such child exists." [L. 1945, c. 64, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved April 28, 1945.) **H.B. 512, Act 64.**

[See R. L. 1945, s. 12388, duty of parents; s. 12280, legitimation; ss. 12385-86, names.]

Chapter 61. HAWAII HOUSING AUTHORITY.

Series A-58: ACT 200

An Act to Amend Chapter 61 of the Revised Laws of Hawaii 1945 Relating to the Hawaii Housing Authority, Its Creation, Powers and Duties, by Amending Section 3524 Thereof Relating to the Issuance of Bonds by the Hawaii Housing Authority, and by Adding Thereto Three New Sections to be Numbered Sections 3536, 3537 and 3538 Relating to Additional Powers of the Hawaii Housing Authority with Respect to Rural Housing, Payments by the Hawaii Housing Authority to Public Bodies, and Certain Agreements to Secure Federal Contributions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3524 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 3524. Bonds. The authority may with the approval of the governor issue bonds (including refunding bonds for the purpose of paying or retiring bonds previously issued by the authority) from time to time in such amounts as it may deem advisable for any of its corporate purposes. The authority may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable: (a) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds, or with such proceeds together with a grant from the federal government in aid of such project; (b) exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any of such bonds may be additionally secured by a pledge of any revenues or a mortgage of any housing project, projects or other property of the authority.

"Neither the commissioners of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof." [L. 1935, c. 190, s. 11; am. L. 1937, c. 179, s. 1; R. L. 1945, s. 3524; am. L. 1945, c. 200, s. 1.]

Section 2. Chapter 61 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto three new sections to be numbered sections 3536, 3537 and 3538, to read as follows:

"Sec. 3536. Powers with respect to rural housing. The authority shall have power to sell or rent dwellings outside of cities and to make or accept such conveyances or leases as it deems necessary to carry out the rural housing purposes of this Act. With respect to such housing, the authority shall not be subject to the tenant selection limitations provided in clause (a) of section 3532.

"No dwelling shall be provided on a farm by the authority unless it has determined that, by reason of the character of the farm with respect to which the dwelling is to be constructed and the manner of its operation, the farmer is likely successfully to carry out the undertakings required of him under his purchase agreement or lease.

"Until a purchaser makes full payment for a dwelling which is constructed by the authority on a farm, such dwelling shall continue to be the property of the authority regardless of the title to the land on which it is constructed, and such dwelling shall be exempt from taxation in the same manner as other property of the authority. Any document making land available for use by the authority shall be admitted to record, and accordingly constitute notice, in the same manner as a deed or other instrument relating to real estate." [L. 1945, c. 200, pt. of s. 2.]

"Sec. 3537. Agreements to secure federal contributions. In addition to the powers conferred upon the authority by other provisions of this Act, the authority in any contract for annual contributions with the federal government may obligate itself (which obligation shall be specifically enforceable and shall not constitute a mortgage, notwithstanding any other laws) to convey to the federal government the project to which such contract relates, upon the occurrence of a substantial default with respect to the covenants or conditions to which the authority is subject; such contract may provide further that in case of such conveyance, the federal government may complete, operate, manage, lease, convey or otherwise deal with the project in accordance with the terms of such contract: **provided**, that the contract requires that, as soon as practicable after the federal government is satisfied that all defaults by reason of which it shall have acquired the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the authority the project as then constituted." [L. 1945, c. 200, pt. of s. 2.]

"Sec. 3538. Payments to public bodies. The authority may agree to make such payments to the Territory, or any political subdivisions thereof (which payments such bodies are hereby authorized to accept) as the authority finds consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this Act." [L. 1945, c. 200, pt. of s. 2.]

Section 3. Severability clause. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 4. Act controlling. In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

Section 5. Effective date. This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 345, Act 200.

Chapter 67. INDUSTRIAL AND REFORMATORY SCHOOLS.

Series A-59: ACT 65

An Act Amending Chapter 67 of the Revised Laws of Hawaii 1945 by Adding Thereto a New Section 3860.01 Relating to the Disposition of Inactive Accounts of Pupils of Industrial Schools.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 67 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section 3860.01 to read as follows:

"Sec. 3860.01. Disposition of inactive accounts. Where money in an individual pupil's account on the books of the school has not been claimed by such person or his legal representative within one year after such person has or would have reached the age of majority, the director shall remit to the territorial treasurer all moneys standing to the credit of such person in such account, taking the receipt of the territorial treasurer therefor. All such moneys shall thereupon become a territorial realization; **provided**, however, that at any time within five years after the payment into the treasury of moneys from any such account, the person or the legal representative of the person, who would have been entitled to receive the same from the director, upon making satisfactory proof to the auditor of the territory of such right, shall receive the amount thereof out of any moneys not otherwise appropriated upon warrant drawn by the auditor." [L. 1945, c. 65, s. 1.]

Section 2. This Act shall apply to existing as well as future accounts.

Section 3. This Act shall take effect upon its approval.
(Approved April 28, 1945.) **H.B. 558, Act 65.**

[Note: See Act 170, F-251, post, appropriation for new site, Waialeale School.]

Series A-60: ACT 137

An Act Amending Chapter 67 of the Revised Laws of Hawaii 1945 by Adding Thereto a New Section 3860.02 Relating to Payment by the Director of Institutions of Certain Claims Against Pupils in Industrial Schools.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 67 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto section 3860.02 to read as follows:

"Sec. 3860.02. Payment by director of certain claims against pupils. Whenever any person shall make a claim against a pupil of an industrial school based on the alleged theft or malicious conversion of property of such person by such pupil, the director may, in his discretion, if he shall determine the claim to be well founded, pay all or any part of such claim out of any funds which he holds for such pupil pursuant to the provisions of section 3860. Upon making any such payment the director shall secure for the pupil from the person receiving the same a whole or partial release, as may be appropriate, of such claim. The right of any pupil to receive the net proceeds of any labor pursuant to the provisions of sections 3859 and 3860 is hereby made expressly subject to the provisions of this section." [L. 1945, c. 137, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 11, 1945.) H.B. 557, Act 137.

Chapetr 68. PRISONS, JAILS, ETC.

Series A-61: ACT 247

An Act Amending Section 3936 of the Revised Laws of Hawaii 1945, Relating to Compensation for Labor by Prisoners.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3936 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

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"Sec. 3936. Compensation for labor by prisoners. Every prisoner who may be employed on or in such work as the warden of the prison, pursuant to the provisions of law, shall prescribe, may be allowed such graduated sums of money as the director by rule may determine; **provided**, however, that compensation shall in no case exceed fifty per cent of the net value of the produce duly credited to each prisoner." [L. 1917, c. 181, s. 2; R. L. 1925, s. 1568; am. L. 1931, c. 110, s. 2; R. L. 1935, s. 6426; am. L. 1939, c. 203, pt. of s. 6; R. L. 1945, s. 3936; am. L. 1945, c. 247, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 19, 1945.) H.B. 498, Act 247.

Chapter 69. TERRITORIAL HOSPITAL.

Series A-62: ACT 201

An Act to Amend Chapter 69 of the Revised Laws of Hawaii 1945 Relating to the Territorial Hospital, by Inserting Therein a New Section to be Designated Section 4013.01 Relating to the Disposition of Proceeds for Expenses Attending the Reception, Maintenance and Care of Non-Indigent Persons.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 69 of the Revised Laws of Hawaii 1945 is hereby amended by inserting therein one new section to be designated section 4013.01 and to read as follows:

"Sec. 4013.01. Fund for structures and permanent improvements to land. All moneys received pursuant to the provisions of section 4013 shall be paid into the territorial treasury into a special fund to be known as the 'Structures and Permanent Improvements to Land Fund'. Moneys in said funds shall be expendable by the director for the erection of structures and other permanent improvements to land at the hospital." [L. 1945, c. 201, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 349, Act 201.

[Note: Appropriations for permanent improvements to the Territorial Hospital and Leahi Home, Act 276, F-249, post.]

Series A-63: ACT 222

An Act Amending Section 4019 of the Revised Laws of Hawaii 1945 Relating to the Conveyance of Patients to the Territorial Hospital.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4019 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the second and third paragraphs thereof, the following:

"It shall be the duty of the department of institutions to convey to the territorial hospital any person committed thereto and to pay all expenses in connection therewith. If any such person is so committed from a county other than the city and county of Honolulu all the necessary traveling and other expenses of the attendant accompanying such person shall be borne by such county." [L. 1925, c. 114, s. 12; R. L. 1935, s. 1241; am. L. 1939, c. 203, pt. of s. 4; am. L. 1941, c. 278, s. 1; R. L. 1945, s. 4019; am. L. 1945, c. 222, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 264, Act 222.

Note: The preceding portion of § 4019 reads as follows:

"Sec. 4019. Conveying patients to hospital. The judge or magistrate by whom any person is committed to the hospital may appoint a proper person to convey the patient to the hospital. If the patient be a woman the committing judge or magistrate must, unless she is accompanied by her father, husband, brother or son, appoint a woman of reputable character and mature age to accompany her thereto."

The balance of the section follows above from Act 222, A-63.

Series A-64: ACT 165

An Act Amending Section 4040 of the Revised Laws of Hawaii 1945, Relating to the Transfer of Feeble-Minded and Epileptic Persons to the Wai-mano Home from the Territorial Hospital.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4040 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the period at the end thereof and adding thereto the following:

"or is an epileptic of the degree and character described in section 4067 and not insane."

Section 2. This Act shall take effect upon its approval.
(Approved May 14, 1945.) H.B. 640, Act 165.

Note: As so amended, § 4040 reads:

"Sec. 4040. **Transfer to Waimano Home.** The governor may order any patient who has been committed to the hospital as an insane person to be transferred to Waimano Home upon the application of the medical director for such transfer, such application to be accompanied by the certificate of the medical director that in his opinion, based on psychological examination, such patient is feeble-minded and not insane or is an epileptic of the degree and character described in section 4067 and not insane. [L. 1939, c. 203, pt. of s. 4; am. L. 1943, c. 204, s. 2; R. L. 1945, s. 4040; am. L. 1945, c. 165, s. 1.]"

Chapter 70. WAIMANO HOME.

Series A-65: ACT 193

An Act Amending Section 4068 of the Revised Laws of Hawaii 1945 Relating to Liability for Expense of Support of Persons Committed to Waimano Home.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4068 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 4068. **Liability for expense of support of persons committed; inmates' liability.** A parent, guardian, or person liable for the support of any person committed to the home, as provided by sections 4066 and 4067, must pay such sums as the court may, in the light of all the circumstances, order. Such order may be changed from time to time upon a showing of change of circumstances. The parent or guardian of a minor committed to the home shall not be liable for such support after the person committed has reached the age of majority. Every person not indigent committed to the home, and any property of his estate not exempt from execution, shall be liable for the expenses of his support; and the attorney general, whenever requested by the director, shall take such steps as may be appropriate, by suit if necessary, to compel the payment thereof and secure the payment by the attachment or other sequestration of any property of such person not exempt from execution." [L. 1919, c. 102, s. 7; R. L. 1935, s. 1036; R. L. 1945, s. 4068; am. L. 1945, c. 193, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 266, Act 193.

Title 9. LABOR.

Chapter 71. LABCR DEPARTMENT.

Series A-66: ACT 9

An Act Amending Section 4121 and Repealing
Section 4122 of Chapter 71 of the Revised Laws of Ha-
waii 1945, Relating to Child Labor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4121 of chapter 71 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By substituting for the word "fourteen" in the seventh line of the first paragraph the word "sixteen".

2. By amending subsection (a) to read:

"(a) No minor under sixteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation at any time; **provided, that** minors between twelve and sixteen years of age may work when not legally required to attend school but not in any occupation prohibited by law."

3. By amending subsections (d) and (e) to read:

"(d) No minor under fourteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation more than thirty hours in any one week, or more than six hours in any one day.

The commission may issue a written waiver of the requirements of the foregoing paragraph of this subsection (d) for a time and place specified in such waiver upon a showing by any employer that such waiver is required to prevent the loss or deterioration of a perishable commodity. But no such waiver shall permit any minor under fourteen years of age to work more than eight hours in any one day or more than forty hours in any one week.

(e) No minor under eighteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation, unless and until the person employing such minor shall procure and keep on file an employment certificate for such minor issued by persons appointed by the director in such form and under such conditions as he may prescribe. Employment certificates shall be of two kinds, regular certificates permitting employment during school hours, and vacation certificates permitting employment during times when said minor is not legally required to attend school.

Persons designated to issue employment certificates may refuse to grant a certificate if, in their judgment, the best interests of the minor would be served by such refusal.

Every employer receiving an employment certificate shall, immediately after termination of the employment, return said certificate to the office from which the same was issued, showing thereon the date of termination. The director may revoke any employment certificate if in his judgment it was improperly issued or the minor is illegally employed."

Section 2. Section 4122 of chapter 71 of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 3. This Act shall take effect upon its approval.

(Approved April 9, 1945.) S.B. 31, Act 9.

Note: As so amended, § 4121 reads:

"Sec. 4121. Child labor, certificates; penalty. Nothing in this section shall be construed to apply to the work of a minor in agricultural labor or work in other than hazardous occupation if the work is performed when such minor is not legally required to attend school and is performed directly for his parents or guardian, nor to the work of a minor performed in connection with the sale or distribution of newspapers or in domestic service, nor to the work of a minor more than sixteen years of age in agricultural labor when said minor is not legally required to attend school.

(a) No minor under sixteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation at any time; provided, that minors between twelve and sixteen years of age may work when not legally required to attend school but not in any occupation prohibited by law.

(b) No minor under sixteen years of age shall be employed or permitted to work in, about, or in connection with any power-driven machinery, nor shall any minor under eighteen years of age be employed in any occupation which the commission shall, after public hearing thereon, by rule declare to be particularly hazardous for the employment of such minor or detrimental to his life, health, safety or well-being, nor shall any such minor under sixteen years of age be employed or permitted to work in, about, or in connection with any gainful occupation more than six consecutive days in any one week, or more than forty hours in any one week, or more than eight hours in any one day, or before seven o'clock in the morning or after six o'clock in the evening of any day. The combined hours of work and hours in school of minors under sixteen employed outside school hours shall not exceed a total of nine per day.

The commission, for good cause, may, by rule or regulation, make a variation in the number of days per week, and in the hours specified in this subsection for the commencement and termination of the work-day, where such variation will not be detrimental to the health or well-being of such minors.

(c) No minor under sixteen years of age shall be employed or permitted to work for more than five hours continuously without an interval of at least thirty minutes for a lunch period, and no period of less than thirty minutes shall be deemed to interrupt a continuous period of work.

(d) No minor under fourteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation more than thirty hours in any one week, or more than six hours in any one day.

The commission may issue a written waiver of the requirements of the foregoing paragraph of this subsection (d) for a time and place specified in such waiver upon a showing by any employer that such waiver is required to prevent the loss or deterioration of a perishable commodity. But no such waiver shall permit any minor under fourteen years of age to work more than eight hours in any one day or more than forty hours in any one week.

(e) No minor under eighteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation, unless and until the person employing such minor shall procure and keep on file an employment certificate for such minor issued by persons appointed by the director in such form and under such conditions as he may prescribe. Employment certificates shall be of two kinds, regular certificates permitting employment during school hours, and vacation certificates permitting employment during times when said minor is not legally required to attend school.

Persons designated to issue employment certificates may refuse to grant a certificate if, in their judgment, the best interests of the minor would be served by such refusal.

Every employer receiving an employment certificate shall, immediately after termination of the employment, return said certificate to the office from which the same was issued, showing thereon the date of termination. The director may revoke any employment certificate if in his judgment it was improperly issued or the minor is illegally employed.

(f) **Penalty.** Any person who wilfully violates any provision of this section shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or both such fine and imprisonment. [L. 1939, c. 237, s. 1 (18); am. L. 1941, c. 319, s. 1; R. L. 1945, s. 4121; am. L. 1945, c. 9, s. 1.]

[Sec. 4122, repealed, Act 9, A-66.]

Chapter 72. APPRENTICESHIP.

Series A-67: ACT 22

An Act Amending Chapter 72 of the Revised Laws of Hawaii 1945, Relating to Apprenticeship.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 72 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By amending section 4146 to read:

"Sec. 4146. Apprenticeship agreements. For the purposes of this chapter an apprenticeship agreement is a written agreement that conforms to standards established under this chapter and is entered into between an apprentice and (1) an employer, (2) an association of employers, (3) an organization of employees, or (4) a joint committee representing employers and employees." [L. Sp. 1941, c. 23, s. 5; R. L. 1945, s. 4146; am. L. 1945, c. 22, s. 1(1).]

2. By adding a new section following section 4147 to be numbered 4148 and to read:

"Sec. 4148. Territory-Federal cooperation. The apprenticeship council is authorized to promote the administration of this chapter by accepting and utilizing information, services, and facilities made available to it by the federal committee on apprenticeship; and the apprenticeship council and the director of apprenticeship shall cooperate with the federal committee on apprenticeship to the fullest extent consistent with the provisions of this chapter." [L. 1945, c. 22, s. 1(2).]

Section 2. This Act shall take effect upon its approval.
(Approved April 20, 1945.) H.B. 26, Act 22.

Series A-68: ACT 250

An Act Creating the Hawaii Employment Relations Board and Dealing with Labor Relations.

Be it Enacted by the Legislature of the Territory of Hawaii:

[CHAPTER 72A. HAWAII EMPLOYMENT RELATIONS ACT.]

[Sec. 4150.01.] Section 1. **Short title.** This Act shall be known and may be cited as the "Hawaii Employment Relations Act." [L. 1945, c. 250, s. 1.]

[Sec. 4150.02.] Section 2. **Declaration of policy.** The Act shall be deemed an exercise of the police power of the Territory for the protection of the public welfare, prosperity, health and peace of the people of the Territory. [L. 1945, c. 250, s. 2.]

[Sec. 4150.03.] Section 3. **Definitions.** When used in this Act:

(1) The term "**person**" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, or receivers.

(2) The term "**employer**" means a person who engages the services of an employee, and includes any person acting on be-

half of an employer, but **shall not include** the Territory or any political subdivision thereof, or any labor organization or anyone acting in behalf of such organization other than when it is acting as an employer in fact.

(3) The term **"employee"** shall include any person, other than an independent contractor, working for another for hire in the Territory, and shall not be limited to the employees of a particular employer unless the context clearly indicates otherwise; and shall include any individual whose work has ceased solely as a consequence of or in connection with any current labor dispute or because of any unfair labor practice on the part of an employer and (a) who has not refused or failed to return to work upon the final disposition of a labor dispute or a charge of an unfair labor practice by a tribunal having competent jurisdiction of the same or whose jurisdiction was accepted by the employee or his representative, (b) who has not been found to be committing or is a party to any unfair labor practice hereunder, (c) who has not obtained regular and substantially equivalent employment elsewhere, or (d) who has not been absent from his employment for a substantial period of time during which reasonable expectancy of settlement has ceased (except by an employer's unlawful refusal to bargain) and whose place has been filled by another engaged in the regular manner for an indefinite or protracted period and not merely for the duration of a strike or lockout; but **shall not include** any individual employed in the domestic service of a family or person at his home or any individual employed by his parent or spouse, or any person engaged directly in the milking or feeding of milch cows, or any person employed in an executive or supervisory capacity, or any individual employed by any employer employing less than eight individuals, or any individual subject to the jurisdiction of the Federal Railway Labor Act or the National Labor Relations Act, as amended from time to time.

(4) The term **"representative"** includes any person chosen by an employee to represent him.

(5) **"Collective bargaining"** is the negotiating by an employer and a majority of his employees in a collective bargaining unit (or their representatives) concerning representation or terms and conditions of employment of such employees in a mutually genuine effort to reach an agreement with reference to the subject under negotiation.

(6) The term **"collective bargaining unit"** shall mean all of the employees of one employer (employed within the Territory), except that where a majority of such employees engaged in a single craft, division, department or plant shall have voted by

secret ballot as provided in section 7 (2) to constitute such group a separate bargaining unit they shall be so considered. Two or more collective bargaining units may bargain collectively through the same representative where a majority of the employees in each separate unit shall have voted by secret ballot as provided in section 7 (2) so to do.

(7) The term **"unfair labor practice"** means any unfair labor practice as defined in section 8.

(8) The term **"labor dispute"** means any controversy between an employer and any of his employees having the formal approval of the majority of his employees in a collective bargaining unit concerning the right or process or details of collective bargaining or the designation of representatives. Any organization with which either the employer or such majority is affiliated may be considered a party to the labor dispute.

(9) The term **"all union agreement"** shall mean an agreement between an employer and the representative of his employees in a collective bargaining unit whereby all of the employees in such unit are required to be members of a single labor organization.

(10) The term **"board"** means the Hawaii employment relations board, as created by section 4.

(11) The term **"election"** shall mean a proceeding in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives or for any other purpose specified in this Act and shall include elections conducted by the board, or, unless the context clearly indicates otherwise, by any tribunal having competent jurisdiction or whose jurisdiction was accepted by the parties.

(12) The term **"secondary boycott"** shall include combining or conspiring to cause or threaten to cause injury to one with whom no labor dispute exists, whether by (a) withholding patronage, labor or other beneficial business intercourse, (b) picketing, (c) refusing to handle, install, use or work on particular materials, equipment or supplies, or (d) by any other unlawful means, in order to bring him against his will into a concerted plan to coerce or inflict damage upon another.

(13) The term **"person employed in an executive or supervisory capacity"**, shall mean any employee who has the authority to hire or fire other employees or whose suggestions and recommendations as to hiring or firing and as to the advancement, promotion or demotion of other employees will be given particular weight. [L. 1945, c. 250, s. 3.]

[Sec. 4150.04.] Section 4. **Hawaii Employment Relations Board.** There is hereby created a board to be known as "Hawaii Employment Relations Board", with offices in Honolulu,

which shall be composed of three members to be appointed by the governor by and with the consent of the senate. One shall represent labor; one, the public; and one, industry. The member representing the public shall be appointed for a term to expire January 31, 1947, and the members representing labor and industry for terms to expire January 31, 1949. Upon the expiration of the term of each member, his successor shall be appointed for a term to expire four years from the date of the expiration of the preceding term. Any vacancy in the board occurring otherwise than by expiration of a term of office shall be filled for the remainder of such unexpired term. Members shall be eligible for reappointment. The governor shall designate the public member to serve as chairman. Each member shall take and file the official oath. Each member shall receive a per diem of fifteen dollars when actually serving on said board. A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board and two members of the board shall constitute a quorum, but it shall be the duty of the governor to appoint a temporary alternate to act in the place of any member who is ill, absent, or for any other reason unable to attend. The board shall have a seal for the authentication of its orders and proceedings, upon which shall be inscribed the words "Hawaii Employment Relations Board-Seal".

The board may employ, promote and remove a secretary, clerks, stenographers, examiners and other assistants, under such existing civil service and classification laws as may be applicable. The board may also employ and remove counsel who are licensed to practice in all the courts of the Territory, and fix their compensation. Such counsel may, at the direction of the board, appear for and represent the board in any case in court. The appointment of persons as counsel shall not be subject to the civil service laws of this Territory.

The reasonable and necessary traveling and other expenses of the board and employees thereof, while actually engaged in the performance of their duties outside the island of Oahu, shall be paid from the territorial treasury upon the audit and warrant of the treasurer, upon vouchers signed by the chairman, or any two members, of the board. At the close of each fiscal year the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including the cases it has heard, its disposition of the same, and the names, duties and salaries of its officers and employees. [L. 1945, c. 250, s. 4.]

[Sec. 4150.05.] Section 5. Conciliator. The governor, in the manner provided by the first paragraph of section 80 of the

Organic Act, shall appoint, for a term of four years, a person well known in the community as being impartial to both labor and industry, who shall be known as the "conciliator", whose office shall be at the office of the board, and whose salary shall be determined under existing classification laws.

Upon receipt of any notice of a dispute which is cognizable by the board, it shall forthwith refer the same to the conciliator, whose duty it shall be to use his best endeavors to conciliate and terminate the same. If after ten days or such further time, not exceeding an additional ten days, as is mutually agreed upon by all parties to the dispute, he has failed to conciliate and terminate such dispute, he shall immediately certify such fact to the board. [L. 1945, c. 250, s. 5.]

[Sec. 4150.06.] Section 6. **Rights of employees.** Employees shall have the right of self-organization and the right to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining of or other mutual aid or protection, and such employees shall also have the right to refrain from any and all such activities, provided, however, that employees may be required to join a union under an all-union agreement as provided in section 8 (c). [L. 1945, c. 250, s. 6.]

[Sec. 4150.07.] Section 7. **Representatives and elections.** (1) Representatives chosen for the purposes of collective bargaining by a majority of the employees voting in a collective bargaining unit shall be the exclusive representatives of all of the employees in such unit for the purposes of collective bargaining. Any individual employee or any minority group of employees in any collective bargaining unit shall have the right at any time to present grievances to their employer in person or through representatives of their own choosing.

(2) Whenever a question arises concerning the determination of a collective bargaining unit as defined in section 3, it shall be determined by secret ballot, and the board, upon request, shall cause the ballot to be taken in such manner as to show separately the wishes of the employees in any craft, division, department or plant as to the determination of the collective bargaining unit.

(3) Whenever a question arises concerning the representation of employees in a collective bargaining unit, the board shall determine the representatives thereof by taking a secret ballot of employees and certifying in writing the results thereof to the interested parties and to their employer. There shall be included on any ballot for the election of representatives the

names of all persons submitted by an employee or group of employees participating in the election, except that the board may in its discretion exclude from the ballot one who, at the time of the election, stands deprived of his rights under this Act by reason of a prior adjudication of his having engaged in an unfair labor practice. The ballot shall be so prepared as to permit of a vote against representation by any one named on the ballot. The board's certification of the results of any election shall be conclusive unless an appeal be taken therefrom under the provisions of this Act.

(4) Questions concerning the determination of collective bargaining units or the representation of employees may be raised by petition of any employee, or by petition of his employer in the case of jurisdictional disputes or in any case after a union has requested recognition. Where it appears by the petition that any emergency exists requiring prompt action, the board shall act upon said petition forthwith and hold the election requested within such time as will meet the requirements of the emergency presented. The fact that one election has been held shall not prevent the holding of another election among the same group of employees, if it appears to the board that sufficient reason therefor exists. [L. 1945, c. 250, s. 7.]

[Sec. 4150.08.] Section 8. What are unfair labor practices.

(1) It shall be an unfair labor practice for an employer individually or in concert with others:

(a) To interfere with, restrain or coerce his employees in the exercise of the rights guaranteed in section 6.

(b) To initiate, create, dominate or interfere with the formation or administration of any labor organization or contribute financial support to it, but an employer shall not be prohibited from reimbursing employees at their prevailing wage rate for time spent conferring with him, nor from cooperating with representatives of at least a majority of his employees in a collective bargaining unit, at their request, by permitting employee organizational activities on employer premises or the use of employer facilities where such activities or use create no additional expense to the employer.

(c) To encourage or discourage membership in any labor organization, employee agency, committee, association or representation plan by discrimination in regard to hiring, tenure or other terms or conditions of employment, but an employer shall not be prohibited from entering into an all-union agreement with the representatives of his employees in a collective bargaining unit, where at least three-quarters of the employees in the collective bargaining unit shall have voted affirmatively by secret ballot in favor of such all-union agreement in a

referendum conducted by the board. Such authorization of an all-union agreement shall be deemed to continue thereafter, subject to the right of either party to the all-union agreement to request the board in writing to conduct a new referendum on the subject. Upon receipt of such request by either party to the agreement, the board shall determine whether there is reasonable ground to believe that there exists a change in the attitude of the employees concerned toward the all-union agreement since the prior referendum and upon so finding the board shall conduct a new referendum. If the continuance of the all-union agreement is supported on any such referendum by a vote at least equal to that hereinabove provided for its initial authorization, it may be continued in force and effect thereafter, subject to the right to request a further vote by the procedure hereinabove set forth. If the continuance of the all-union agreement is not thus supported on any such referendum, it shall be deemed terminated at the termination of the contract of which it is then a part or at the end of one year from the date of the announcement by the board of the result of their referendum, whichever proves to be the earlier date. The board shall declare any such all-union agreement terminated whenever it finds that the labor organization involved has unreasonably refused to receive as a member any employee of such employer, and each such all-union agreement shall be made subject to this duty of the board. Any person interested may come before the board as provided in section 9 and ask the performance of this duty.

(d) To refuse to bargain collectively with the representative of a majority of his employees in any collective bargaining unit. If an employer files with the board a petition requesting a determination as to majority representation, he shall not be deemed to have refused to bargain until an election has been held and the result thereof has been certified to him by the board.

(e) To bargain collectively with the representatives of less than a majority of his employees in a collective bargaining unit, or to enter into an all-union agreement except in the manner provided in subsection (1) (c) of this section.

(f) To violate the terms of a collective bargaining agreement.

(g) To refuse or fail to recognize or accept as conclusive of any issue in any controversy as to employment relations the final determination of the board or of any tribunal of competent jurisdiction.

(h) To discharge or otherwise discriminate against an employee because he has filed charges or given information or testimony under the provisions of this Act.

(i) To deduct labor organization dues or assessments from an employee's earnings, unless the employer has been presented with an individual order therefor, signed by the employee personally.

(j) To employ any person to spy upon employees or their representatives respecting their exercise of any right created or approved by this Act.

(k) To make, circulate or cause to be circulated a blacklist.

(2) It shall be an unfair labor practice for an employee individually or in concert with others:

(a) To coerce or intimidate an employee in the enjoyment of his legal rights, including those guaranteed in section 6.

(b) To coerce, intimidate or induce any employer to interfere with any of his employees in the enjoyment of their legal rights, including those guaranteed in section 6, or to engage in any practice with regard to his employees which would constitute an unfair labor practice if undertaken by him on his own initiative.

(c) To violate the terms of a collective bargaining agreement.

(d) To refuse or fail to recognize or accept as conclusive of any issue in any controversy as to employment relations the final determination of the board or of any tribunal of competent jurisdiction.

(e) To cooperate in engaging in, promoting or inducing picketing (not constituting an exercise of constitutionally guaranteed freedom of speech), boycotting or any other overt act accompanying a strike unless a majority in a collective bargaining unit of the employees of an employer against whom such acts are primarily directed have voted by secret ballot to call a strike.

(f) To hinder or prevent, by mass picketing, threats, intimidation, force or coercion of any kind the pursuit of any lawful work or employment, or to obstruct or interfere with entrance to or egress from any place of employment, or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance.

(g) To engage in a secondary boycott; or to hinder or prevent, by threats, intimidation, force, coercion or sabotage, the obtaining, use or disposition of materials, equipment or services; or to combine or conspire to hinder or prevent, by any means whatsoever, the obtaining, use or disposition of materials, equipment or service. Nothing herein shall prevent sympathetic strikes in support of those in similar occupations working for other employers in the same craft.

(h) To take unauthorized possession of property of the employer or to engage in any concerted effort to interfere with production except by leaving the premises in an orderly manner for the purpose of going on strike.

(i) To fail to give the notice of intention to strike provided in section 12.

(3) It shall be an unfair labor practice for any person to do or cause to be done, on behalf or in the interest of employers or employees, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by subsections (1) and (2) of this section. [L. 1945, c. 250, s. 8.]

[Sec. 4150.09.] Section 9. Prevention of unfair labor practices. (1) Any controversy concerning unfair labor practices may be submitted to the board in the manner and with the effect provided in this Act, but nothing herein shall prevent the pursuit of legal or equitable relief in courts of competent jurisdiction.

(2) Upon the filing with the board by any party in interest of a complaint in writing, on a form provided by the board, charging any person with having engaged in any specific unfair labor practice, it shall mail a copy of such complaint to the person charged. Any other person claiming interest in the dispute or controversy, as an employer, an employee, or their representative, shall be made a party upon application. The board may bring in additional parties by service of a copy of the complaint. Only one such complaint shall issue against a person with respect to a single controversy, but any such complaint may be amended in the discretion of the board at any time prior to the issuance of a final order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the notice of hearing. The board shall fix a time for the hearing on such complaint, which will be not less than ten nor more than forty days after the filing of such complaint or amendment thereof, and notice shall be given to each party by service on him personally or by mailing a copy thereof to him at his last known post office address at least ten days before such hearing. In case a party in interest is located without the Territory and has no known post office address within the Territory, a copy of the complaint and copies of all notices shall be filed in the office of the secretary of the Territory and shall also be sent by registered mail to the last known post office address of such party. Such filing and mailing shall constitute sufficient service with the same force and effect as if served upon a party located within the Territory. Such hearing

may be adjourned from time to time in the discretion of the board and hearings may be held at such places as the board shall designate. In all proceedings under this Act before the board, each member of the board shall have the power to issue subpoenas and administer oaths. Depositions may be taken in the manner prescribed by law. No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to such subpoena on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture under the laws of the Territory, but such person shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in such proceedings. Such person so testifying, shall not be exempt, however, from prosecution and punishment for perjury committed in so testifying.

Any person who shall wilfully and unlawfully fail or neglect to appear or to testify or to produce books, papers and records as required, shall, upon application to a circuit judge, be ordered to appear before the board, there to testify or produce evidence if so ordered, and failure to obey such order may be punished as a contempt of court.

Each witness who shall appear before the board by subpoena shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid by the Territory in the same manner as other expenses are audited and paid, upon the presentation of properly verified vouchers approved by the board.

(3) A full and complete record shall be kept of all proceedings had before the board and all testimony and proceedings shall be taken down by a reporter engaged for such purpose. In such proceedings the board shall not be bound by technical rules of evidence prevailing in the courts of law or equity. No hearsay evidence, however, shall be admitted or considered.

(4) After the final hearing, the board shall promptly make and file an order or decision, incorporating findings of fact upon all the issues involved in the controversy and the determination of the rights of the parties. Pending the final determination of such controversy the board may, after hearing, make interlocutory orders which may be enforced in the same manner as final orders. Final orders may dismiss the complaint or require the person complained of to cease and desist from the unfair labor practices found to have been committed, suspend his rights, immunities, privileges or remedies granted or afforded by this Act for not more than one year, and require him to take such affirmative action, including reinstatement

of employees with or without pay, as the board may deem proper. Any order may further require such person to make reports from time to time showing the extent to which he has complied with the order.

(5) If any person fails or neglects to obey an order of the board while the same is in effect the board may petition the circuit judge of the judicial circuit wherein such person resides or usually transacts business for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court the record in the proceedings, including all documents and papers on file in the matter, the pleadings and testimony upon which such order was entered, and the decision and order of the board. Upon such filing the board shall cause notice thereof to be served upon such person by mailing a copy to his last known post office address, and thereupon the judge shall have jurisdiction in the premises.

(6) Within fifteen days from the date of the decision or order of the board, any party aggrieved thereby may petition the judge of the judicial circuit in which he or any party resides or transacts business for review of the same, subject, however, to the general provisions of law for a change of the place of trial or the calling in of another judge. Where different parties in the same proceeding file petitions for review in two or more courts having proper jurisdiction, the jurisdiction of the judge first petitioned shall be exclusive and the other petitions shall be transferred to him. Such petition shall state the grounds upon which a review is sought and copies thereof shall be served upon the other parties and the board. Service may be made by mailing such copies to the last known post office address of the parties concerned. If the judge is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of the decision or order, he may extend the time another fifteen days in which such petition may be filed. The board shall thereupon file in the court the record in the proceedings. The petition may thereupon be brought on for hearing before the judge upon such record by any party on ten days' written notice to the others. Upon such hearing, the judge may confirm, modify or set aside the decision or order of the board and enter an appropriate decree. No objection that has not been urged before the board shall be considered by the judge unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of fact made by the board, if supported by credible, competent and substantial evidence in the record, shall be conclusive. The judge may, in his discretion, grant leave to adduce additional evidence where such evidence ap-

pears to be material and reasonable cause is shown for failure to have adduced such evidence in the hearing before the board.

(7) In any proceedings for review of a decision or order of the board, the judge shall disregard any irregularity or error unless it be made to appear affirmatively that the complaining party was prejudiced thereby.

(8) Commencement of proceedings under subsection (6) of this section shall, unless otherwise specifically ordered by the judge, operate as a stay of the decision or order of the board.

(9) Petitions filed under this section shall have preference over any civil cause of a different nature pending in the circuit court, shall be heard expeditiously, and the circuit courts shall always be deemed open for the trial thereof.

(10) Any party may appeal from the decree of a circuit judge entered under the provisions of this Act to the supreme court of the Territory. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the supreme court from a decision, judgment, order or decree of a circuit judge in chambers.

(11) A substantial compliance with the procedure of this Act shall be sufficient to give effect to the decisions and orders of the board, and they shall not be declared inoperative, illegal, or void for any non-prejudicial irregularity in respect thereof.

(12) No complaints of any specific unfair labor practice shall be considered unless filed within ninety days of its occurrence. [L. 1945, c. 250, s. 9.]

[Sec. 4150.10.] **Section 10. Financial reports to employees.** Every person acting as the representative of employees for collective bargaining shall keep an adequate record of his financial transactions and shall present annually, to such employees as may be members of the association with which such representative is connected, within sixty days after the end of his fiscal year a detailed written financial report thereof in the form of a balance sheet and an operating statement. In the event of failure of compliance with this section, any such employee may petition the board for an order compelling such compliance. An order of the board on such petition shall be enforceable in the same manner as other orders of the board under this Act. [L. 1945, c. 250, s. 10.]

[Sec. 4150.11.] **Section 11. Rules and regulations.** The board may adopt reasonable and proper rules and regulations relative to the exercise of its powers and authority and to govern the proceedings before it. Such rules and regulations

shall become effective ten days after their publication in a newspaper of general circulation in the Territory. [L. 1945, c. 250, s. 11.]

[Sec. 4150.12.] **Section 12. Strike notice.** Where the exercise of the right to strike by employees of any employer engaged in the Territory in the production, harvesting or initial processing of any farm, agricultural or dairy product produced in the Territory would tend to cause the destruction or serious deterioration of such product, such employees shall give to the board at least ten days' notice of their intention to strike, and the board shall immediately advise the employer of such notice. [L. 1945, c. 250, s. 12.]

[Sec. 4150.13.] **Section 13. Public records and proceedings.** The complaints, orders and testimony relating to a proceeding instituted by the board under section 9 shall be public records and be available for inspection or copying. All proceedings pursuant to section 9 shall be open to the public. [L. 1945, c. 250, s. 13.]

[Sec. 4150.14.] **Section 14. List of labor organizations.** The board shall maintain a list of labor organizations. To be recognized as such and to be included in the list, an organization must file with the board a statement of its name, the name and address of its secretary or other officer to whom notices may be sent, the date of its organization and its affiliations, if any, with other organizations. No other qualifications for inclusion shall be required, but every labor organization shall notify the board promptly of any change of name, or of the name and address of its secretary or other officer to whom notices may be sent, or of its affiliations. [L. 1945, c. 250, s. 14.]

[Sec. 4150.15.] **Section 15. Penalty.** Any person who shall wilfully assault, resist, prevent, impede or interfere with the conciliator or any member of the board or any of the agents or agencies of either in the performance of duties pursuant to this Act shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both. [L. 1945, c. 250, s. 15.]

[Sec. 4150.16.] **Section 16. Construction.** Except as specifically provided in this Act, nothing herein shall be construed so as to interfere with or impede or diminish in any way the right to strike or the right of individuals to work, nor shall anything in this Act be so construed as to invade unlawfully the right to freedom of speech. [L. 1945, c. 250, s. 16.]

[Sec. 4150.17.] Section 17. **Operation of Act.** Nothing in this Act shall operate to abrogate, annul, or modify any valid agreement respecting employment relations existing on its effective date. [L. 1945, c. 250, s. 17.]

[Sec. 4150.18.] Section 18. **Conflicting provisions.** Wherever the application of the provisions of other laws conflict with the application of the provisions of this Act, this Act shall prevail, provided that in any situation where the provisions of this Act cannot be validly enforced the provisions of such other laws shall apply. [L. 1945, c. 250, s. 18.]

[Sec. 4150.19.] Section 19. **Separability of provisions.** If any provision of this Act or the application of such provision to any persons or circumstances shall be held invalid the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby. [L. 1945, c. 250, s. 19.]

[Sec. 4150.20.] Section 20. **Cooperation with National Labor Relations Board.** It shall be the duty of the conciliator and the board to cooperate with the National Labor Relations Board and its agents and representatives. [L. 1945, c. 250, s. 20.]

Section 21. **Appropriation.** There is hereby appropriated from the territorial general fund the sum of \$50,000.00 to cover the expenses necessary to the administration of this Act during the ensuing biennium.

Section 22. **Effective date.** This Act shall take effect upon July 1st, 1945, but the members of the board and the conciliator may be appointed at any time prior thereto, which appointments shall take effect upon July 1st, 1945.

(Approved May 21, 1945.) S.B. 72, Act 250.

Chapter 74. UNEMPLOYMENT COMPENSATION.

Series A-69: ACT 19

An Act Amending Chapter 74 of the Revised Laws of Hawaii 1945, Relating to Unemployment Compensation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 74 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

*See S.L. 247
m-A-67 Oct 75.
249-A-111, Oct 78*

1. By deleting paragraph (I) of section 4208.
2. By amending paragraph (J) (i) of section 4208 by changing the semicolon at the end thereof to a comma and adding the following:

"or (IV) such service is performed by members of religious orders or ministers of the gospel;"

[Note: § 4208 deals with service "excluded" from "employment." The par. (I), deleted, dealt with service for certain eleemosynary associations. Par. J deals with other groups exempt from income tax.]

3. By amending the schedule in section 4215 to read:

[WEEKLY BENEFIT SCHEDULE.]

| "COLUMN A Wages paid in highest quarter of base period | COLUMN B Weekly benefit amount | COLUMN C Qualifying wages paid in base period | COLUMN D Maximum total benefits in benefit year |
|---|---|--|--|
| \$ 37.50-125.00 | \$ 5.00 | \$150.00 | \$100.00 |
| 125.01-150.00 | 6.00 | 180.00 | 120.00 |
| 150.01-175.00 | 7.00 | 210.00 | 140.00 |
| 175.01-200.00 | 8.00 | 240.00 | 160.00 |
| 200.01-225.00 | 9.00 | 270.00 | 180.00 |
| 225.01-250.00 | 10.00 | 300.00 | 200.00 |
| 250.01-275.00 | 11.00 | 330.00 | 220.00 |
| 275.01-300.00 | 12.00 | 360.00 | 240.00 |
| 300.01-325.00 | 13.00 | 390.00 | 260.00 |
| 325.01-350.00 | 14.00 | 420.00 | 280.00 |
| 350.01-375.00 | 15.00 | 450.00 | 300.00 |
| 375.01-400.00 | 16.00 | 480.00 | 320.00 |
| 400.01-425.00 | 17.00 | 510.00 | 340.00 |
| 425.01-450.00 | 18.00 | 540.00 | 360.00 |
| 450.01-475.00 | 19.00 | 570.00 | 380.00 |
| 475.01-500.00 | 20.00 | 600.00 | 400.00 |
| 500.01-525.00 | 21.00 | 630.00 | 420.00 |
| 525.01-550.00 | 22.00 | 660.00 | 440.00 |
| 550.01-575.00 | 23.00 | 690.00 | 460.00 |
| 575.01-600.00 | 24.00 | 720.00 | 480.00 |
| 600.01-625.00 | 25.00 | 750.00 | 500.00 |
| 625.01-and over | 25.00 | 750.00 | 500.00." |

[s. 3(c); L. 1939, c. 219; am. L. 1941, c. 304, s. 1, pt. of subs. 15; R. L. 1945, s. 4215; am. L. 1945, c. 19, s. 1(3).]

4. By substituting for the figures "1945" in the last line of the second paragraph of section 4219 the figures "1947".

[Note: § 4226, amended by Act 179, A-70, immediately following this act.]

5. By substituting for the figures "1942" in the first line of paragraph (B) of section 4252 the figures "1946".

6. By amending section 4253 to read:

"Sec. 4253. Rates based on experience. Subject to all other requirements of this subtitle, an employer's rate shall be:

(A) 2 per centum if such excess equals or exceeds 4 per centum but is less than 6 per centum of his average annual payroll;

(B) 1 per centum if such excess equals or exceeds 6 per centum but is less than 8 per centum of his average annual payroll;

(C) zero, and no contributions payable, if such excess equals or exceeds 8 per centum of his average annual payroll." [s. 7(c) (5); L. 1939, c. 219; am. L. 1941, c. 304, s. 1, pt. of subs. 21; R. L. 1945, s. 4253; am. L. 1945, c. 19, s. 1(6).]

Section 2. This Act shall take effect upon its approval, except paragraph 3 amending section 4215 which shall take effect on July 1, 1945, and paragraphs 5 and 6 amending sections 4252 and 4253, respectively, which shall take effect on January 1, 1946.

(Approved April 16, 1945.) S.B. 40, Act 19.

Series A-70: ACT 179

An Act to Amend Section 4226 of the Revised Laws of Hawaii 1945, Relating to the Definition of Seasonal Pursuit Under the Unemployment Compensation Law.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4226 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the words "thirty per centum" in the twelfth line of paragraph (A) thereof the words "fifty per centum".

Section 2. The amendment effected by section 1 of this Act shall be applicable for the purpose of determining the status of an industry or of an occupation within an industry under section 4226, only during the years 1945, 1946 and 1947, or only until six months after the cessation of hostilities in the present war, whichever period is the longer.

Section 3. This Act shall take effect upon its approval.
(Approved May 15, 1945.) S.B. 253, Act 179.

[Note: This Act affects definition of "seasonal pursuit" in connection with benefits to seasonal workers in an industry occupation.]

Chapter 75. WAGE AND HOUR LAW.

Series A-71: ACT 15

AM. '49
Sr. A-113A29 ✓
An Act Amending Chapter 75 of the Revised Laws of Hawaii 1945, Relating to Wages and Hours of Labor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 75 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By amending the definition of "employee" in section 4352 to read:

"'Employee' includes any individual employed by an employer, but shall not include any individual employed: (1) at a guaranteed monthly salary of one hundred fifty dollars or more; (2) in agriculture for any workweek in which the employer of said individual employs less than twenty persons; (3) in domestic employment in or about a private home; (4) by his son, daughter or spouse, or by his father or mother if said individual is under the age of twenty; (5) in a bona fide executive, administrative, supervisory, or professional capacity or in the capacity of outside salesman, or as an outside collector; (6) in the propagating, catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal or vegetable life, including the going to and returning from work and the loading and unloading of such products prior to first processing; (7) as a seaman; or (8) in any capacity if by reason of his employment in such capacity and during the term thereof, the minimum wage which may be paid such employee or maximum hours which such employee may work during any workweek without the payment of overtime, are prescribed by the federal fair labor standards Act of 1938, or as the same may be amended from time to time; and (9) shall not include members of any religious order or any individual donating his services to any hospital, religious, fraternal or charitable organization."

2. By amending section 4353 to read:

"Sec. 4353. Minimum wages. Every employer, except as the director may provide pursuant to section 4359, shall pay to each employee employed by him wages at the rate of not less than forty cents an hour, provided, however, that the department of labor and industrial relations may by regulation provide for the payment of less than forty

cents per hour to children fourteen years of age and under.” [L. Sp. 1941, c. 66, s. 3; am. L. 1943, c. 159, s. 2; R. L. 1945, s. 4353; am. L. 1945, c. 15, s. 1(2).]

3. By amending the first paragraph of section 4363 to read as follows:

“**Criminal.** Any person divulging information in violation of section 4358, or any employer who wilfully violates any provision of this chapter or of any rule, regulation, or order issued under the authority of this chapter, or who discharges or in any other manner discriminates against any employee because such employee has made any complaint to his employer, to the director, or to any other person, or has instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceedings, shall, upon conviction therefor, be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment. Each day a violation shall continue shall constitute a separate offense. Failure of an employer to pay an employee any minimum wage or overtime compensation required by sections 4353-4354 shall constitute prima facie evidence of a violation of such sections.”

4. By amending the second paragraph of section 4363 to read:

“**Liability to employee:** Any employer who violates any provision of sections 4353-4354 shall be liable to the employee or employees affected in the amount of their unpaid minimum wages or unpaid overtime compensation, as the case may be, and in case of wilful violation in an additional equal amount as liquidated damages.”

Section 2. This Act shall take effect July 1, 1945.

(Approved April 11, 1945.) S.B. 39, Act 15.

Note: The rest of § 4363 reads:

Collection suits; attorney's fee; assignments; relief from costs: Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated, or such employee or employees may designate an agent or representative to maintain such action for and in behalf of all employees similarly situated. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, in the event said plaintiff or plaintiffs shall prevail, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. At the request of any person paid less than the amount to which he is entitled under the provisions of this chapter, the director may take an assignment in trust for the assigning employee of the full amount to which he is entitled under this subsection and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs

and such reasonable attorney's fees as may be allowed by the court in the event the director shall prevail. The director shall not be required to pay the filing fee, or other costs, in connection with such action. The director, in case of suit, shall have power to join various claimants against the same employer in one cause of action.

Injunctions: Whenever it shall appear to the director that any employer is engaged in any act or practice which constitutes or will constitute a violation of any provision of this chapter, or of any provision of any regulation, he may in his discretion bring an action in the circuit court of the circuit in which it is charged the act or practice complained of occurred to enjoin such act or practice and to enforce compliance with this chapter or with such regulation, and upon a proper showing, a permanent or temporary injunction or decree or restraining order shall be granted without bond.

Restitution of illegal deductions; effect of: Whenever in the course of an inspection made for the purposes of this chapter it is determined that there has been an illegal deduction of wages under sections 4383-4384, the director or his authorized representative is hereby empowered to secure restitution of such deductions. If such restitution be made, no prosecution under chapter 76 shall be instituted or maintained. [L. Sp. 1941, c. 66, s. 10; am. L. 1943, c. 159, s. 4; R. L. 1945, s. 4363; am. L. 1945, c. 15, s. 1 (3,4).]

[Wage claims, see R. L. 1945, s. 4114 and c. 76.]

Chapter 76. WAGES, PAYMENT OF.

Series A-72: ACT 11

An Act Amending Chapter 76 of the Revised Laws of Hawaii 1945, Relating to Payment of Wages.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4385 of chapter 76 of the Revised Laws of Hawaii 1945 is hereby amended to read:

"Sec. 4385. Penalty. Any person who wilfully neglects or refuses to pay wages as provided in sections 4381-4382 or who shall violate any provision of sections 4383-4384 shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars and not more than one hundred dollars.

It shall be the duty of the department of labor and industrial relations to enforce the provisions of this chapter." [L. 1901, c. 17, s. 3; R. L. 1925, s. 3593; R. L. 1935, s. 7472; R. L. 1945, s. 4385; am. L. 1945, c. 11, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved April 9, 1945.) S.B. 38, Act 11.

[Note: R. L. 1945, s. 4363, restitution of illegal deductions as bar to prosecution.]

Chapter 77. WORKMEN'S COMPENSATION.

Series A-73: ACT 10

AM. '49

Sr. A-73

An Act Amending Chapter 77 of the Revised Laws of Hawaii 1945, Relating to Workmen's Compensation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 77 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By substituting for the words "six months" in the definition of "injury" in section 4401 the words "one year",

2. By substituting for the words "as hereinafter defined" in the first sentence of section 4403 the words "as defined in this chapter".

3. By adding to section 4403 the following three new paragraphs: [see note next page:]

"Election. Any employer whose trade, occupation or profession does not come within the meaning of 'industrial employment' as defined in section 4401 may elect to provide and pay compensation under this chapter, and any employer having employees whose remuneration, excluding pay for overtime, exceeds one hundred dollars a week may elect to provide and pay to such employees compensation hereunder. During the effective period of such election hereinafter prescribed such employer and the employees covered thereby shall be subject in all respects to the provisions of this chapter.

Election by any employer to provide and pay compensation under this chapter shall be made by the employer securing compensation to his employees in the manner provided in section 4454 and giving the notice prescribed by section 4455.

Every employer who elects under the terms of this section to provide and pay compensation shall be bound thereby until January first of the next succeeding year and for terms of each year thereafter; **provided**, any such employer may elect not to provide and pay such compensation for personal injuries occurring after the expiration of any such calendar year by filing notice of such election with the director at least sixty days prior to the expiration of any such calendar year and at the same time posting such notice conspicuously in each place of business where workers perform their duties." [L. 1915, c. 221, s. 1; am. L. 1917, c. 227, s. 1; R. L. 1925, s. 3604; R. L. 1935, s. 7480; R. L. 1945, s. 4403; am. L. 1945, c. 10, s. 1 (2, 3).]

Note: The first paragraph of § 4403, as amended, to which the above additions are appended, reads:

"Sec. 4403. **Employments covered.** This chapter shall apply to any and all industrial employment, as defined in this chapter. If a workman receives personal injury by accident arising out of and in the course of the employment or by disease proximately caused by the employment, or resulting from the nature of the employment, his employer or the insurance carrier shall pay compensation in the amounts and to the person or persons hereinafter specified."

4. By adding to subsection 1 of **section 4416** immediately preceding the last paragraph in said subsection the following new paragraph:

"An injured employee awarded compensation under this subsection for permanent total disability may receive an additional sum of not more than fifty dollars a month, as the director may deem necessary, when the director shall find that the service of an attendant for the injured employee is constantly necessary. Such payments shall be made upon the order of the director from the special compensation fund provided in section 4417, but in no case shall such payments be authorized beyond the period for which compensation is payable for permanent total disability under this subsection."

5. By amending the last paragraph of subsection 1 of **section 4416** to read:

"The amount of compensation paid in any case shall not exceed in the aggregate the sum of seventy-five hundred dollars, but any additional compensation awarded under this section for services of an attendant shall not be included in computing said sum."

Note: As so amended, § 4416 reads:

"Sec. 4416. 1. **Permanent total disability.** Where the injury causes total and permanent disability for work, the employer shall pay the injured employee a weekly compensation equal to sixty-six and two-thirds per centum of his average weekly wages, but not more than twenty-five dollars nor less than eight dollars a week. But no adjudication of permanent total disability shall be made until after two weeks from the date of injury.

In the case of the following injuries, the disability caused thereby shall be deemed total and permanent:

- (1) The total and permanent loss of sight in both eyes;
 - (2) The loss of both feet at or above the ankle;
 - (3) The loss of both hands at or above the wrist;
 - (4) The loss of one hand and one foot;
 - (5) An injury to the spine resulting in permanent and complete paralysis of both legs or both arms or of one leg and one arm;
 - (6) An injury to the skull resulting in incurable imbecility or insanity.
- The above enumeration is not to be taken as exclusive.

An injured employee awarded compensation under this subsection for permanent total disability may receive an additional sum of not more than fifty dollars a month, as the director may deem necessary, when the director shall find that the service of an attendant for the injured employee is constantly necessary. Such payments shall be made upon the order of the director from the special compensation fund provided in section 4417, but in no case shall such payments be authorized beyond the period for which compensation is payable for permanent total disability under this subsection.

The amount of compensation paid in any case shall not exceed in the aggregate the sum of seventy-five hundred dollars, but any additional compensation awarded under this section for services of an attendant shall not be included in computing said sum.

2. **Temporary total disability.** Where the injury causes total disability for work, the employer, during disability, but not including the first seven days thereof, except as hereinafter provided, shall pay the injured employee a weekly compensation equal to sixty-six and two-thirds per centum of his average weekly wages, but not more than twenty-five dollars nor less than eight dollars a week; **provided**, in case of an employee whose average weekly wages are less than eight dollars a week, the weekly compensation shall be the full amount of the average weekly wages; **provided**, however, that in case the injury results in disability of more than forty-nine days, the compensation shall be allowed from the date of disability.

In no case shall the weekly payments continue after the disability ends; nor shall the amount of compensation paid in any case exceed in the aggregate the sum of seventy-five hundred dollars. [L. 1915, c. 221, s. 13; am. L. 1917, c. 227, s. 4; am. L. 1923, c. 249, s. 3; R. L. 1935, s. 7492; am. L. 1939, c. 206, s. 1; am. L. 1943, c. 157, pt. of s. 1; R. L. 1945, s. 4416; am. L. 1945, c. 10, s. 1 (4,5).]"

6. By amending the last paragraph of subsection 1 of section 4417 to read:

"Maximum compensation. The total compensation under this section and the total compensation under section 4416, taken together, shall not exceed in the aggregate the sum of seventy-five hundred dollars, but any additional compensation awarded under section 4416 for services of an attendant shall not be included in computing said sum."

7. By deleting from the heading of section 4435 the words "committee on arbitration" and by deleting the portion of section 4435 following the word "award" in the sixth line of said section, so that the section as amended reads:

"Sec. 4435. Award. If the compensation is not settled by agreement, the director shall, upon the filing with the bureau of a copy of the claim for compensation, make such further investigation as he shall deem necessary, and shall make an award which shall be filed with the record of proceedings, and shall state his conclusions of fact and ruling of law, and shall immediately send to the parties

a copy of the award." [L. 1915, c. 221, s. 31; am. L. 1917, c. 227, s. 7; R. L. 1925, s. 3634; R. L. 1935, s. 7511; am. L. 1939, c. 237, s. 3, pt. of par. 5; R. L. 1945, s. 4435; am. L. 1945, c. 10, s. 1 (7).]

8. By repealing sections 4436, 4437, 4439 and 4440, and by amending sections 4446, 4447 and 4448 as follows:

(1) By deleting from the third line in section 4446 the words "or by a committee of arbitration", and by deleting from the fourth and fifth lines in said section the words "or committee" and the words "or committee, respectively, as the case may be".

[See note at end of this Act.]

(2) By deleting from the eighth, ninth and tenth lines of section 4447 the words "or (3) a decision of an arbitration committee awarding compensation, from which no claim for review has been filed within the time allowed therefor;"

(3) By deleting from the first line of section 4448 the words "committee of arbitration,"

9. By adding to section 4438 the following new sentence:

"The fees for such examinations shall be paid from the funds appropriated by the legislature for the use of the bureau."

Note: As so amended § 4438 reads:

"Sec. 4438. Examination by physician. The director may appoint a duly qualified impartial physician to examine the injured employee and to report. The fees for such examinations shall be paid from the funds appropriated by the legislature for the use of the bureau. [L. 1915, c. 221, s. 34; am. L. 1917, c. 227, s. 8; R. L. 1925, s. 3637; R. L. 1935, s. 7514; R. L. 1945, s. 4438; am. L. 1945, c. 10, s. 1 (9).]"

10. By deleting the title of section 4441 from the first paragraph thereof and inserting at the beginning of said section a new paragraph reading as follows:

"Sec. 4441. Reopening case; modification of awards and agreements. In the absence of appeal and within twenty days after a copy of an award or decision has been sent to the parties, the director may upon his own motion or upon the application of any party reopen a case to permit the introduction of newly discovered evidence, and may make a revised award or decision."

Note: The rest of § 4441, following the above amendment, reads:

"The director may at any time, either of his own motion or upon the application of any party, reopen any case on the ground that fraud has been practiced on the director or on any party and make such award or decision as he shall deem proper.

On the application of any party on the ground of a change of conditions, the director may, at any time within seven years after the date of the injury or accident or within three years after the date of final payment

of compensation previously awarded, whichever period is longer, and not oftener than once in six months, review any agreement or award, and on review may make an award ending, diminishing or increasing the compensation previously agreed upon or awarded subject to the maximum and minimum provided in this chapter, and shall, in all cases under this section, state his conclusions of fact and rulings of law, and immediately send to the parties a copy of his award or decision, but this paragraph shall not apply to a commutation of payments under section 4423. [L. 1915, c. 221, s. 37; am. L. 1923, c. 249, s. 6; R. L. 1925, s. 3640; R. L. 1935, s. 7517; am. L. 1939, c. 206, s. 3 and c. 237, pt. of s. 3; R. L. 1945, s. 4441; am. L. 1945, c. 10, s. 1 (10).]

[Effect on awards by appellate boards or courts, R. L. 1945, s. 4445.]

11. By amending the first paragraph of section 4449 to read:

"Sec. 4449. Report of accidents by employers; penalty. Every employer shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment, when known to him or brought to his attention. Within fifteen days after the employer has knowledge of the occurrence of an injury causing absence from work for one day or more or requiring medical treatment beyond ordinary first aid, a report thereof shall be made in writing by the employer to the director on blanks to be procured from the director for this purpose."

12. By amending the fourth paragraph of section 4449 to read:

"Any employer who wilfully refuses or neglects to make any of the reports required by this section shall be guilty of a misdemeanor and punishable by a fine of not more than one hundred dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment."

13. By adding to section 4449 at the end thereof the following new paragraph:

"Deposit of any of the reports required by this section in the United States mail, addressed to the director, within the time limit specified shall be deemed compliance with the requirements of this section." [L. 1915, c. 221, s. 56; R. L. 1925, s. 3659; R. L. 1935, s. 7536; am. L. 1939, c. 206, s. 4 and c. 237, pt. of s. 3; R. L. 1945, s. 4449; am. L. 1945, c. 10, s. 1 (11, 12, 13).]

Section 2. This Act shall take effect upon its approval.
(Approved April 9, 1945.) S.B. 37, Act 10.

Note: As so amended, §§ 4446 and 4449 read:

"Sec. 4446. Majority control. Whenever under this chapter any award, order, rule, regulation or decision is required or authorized to be made by the appellate board the action of a majority of the members of the board shall be considered as the action of the board. [L. 1915, c. 221, s. 59;

R. L. 1925, s. 3662; R. L. 1935, s. 7539; am. L. 1939, c. 237, s. 3, par. 19; R. L. 1945, s. 4446; am. L. 1945, c. 10, s. 1 (8).]"

"Sec. 4449. **Report of accidents by employers; penalty.** Every employer shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment, when known to him or brought to his attention. Within fifteen days after the employer has knowledge of the occurrence of an injury causing absence from work for one day or more or requiring medical treatment beyond ordinary first aid, a report thereof shall be made in writing by the employer to the director on blanks to be procured from the director for this purpose.

"Upon the termination of the disability of the injured employee, the employer shall make a supplemental report upon blanks to be procured from the director for that purpose. If the disability extends beyond a period of sixty days, the employer shall report to the director at the end of the period that the injured employee is still disabled, and upon the termination of the disability shall file a final supplemental report as provided above.

"The reports shall contain the name and nature of the business of the employer, the situation of the establishment, the name, age, sex, wages, and occupation of the injured employee, and shall state the date and hour of the accident causing the injury, the nature and cause of the injury, and such other information as may be required by the director.

"Any employer who wilfully refuses or neglects to make any of the reports required by this section shall be guilty of a misdemeanor and punishable by a fine of not more than one hundred dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

"Within sixty days after the termination of the disability of the injured employee, the employer or other party liable to pay the compensation provided for by this chapter shall file with the board a statement showing the total payments made or to be made for compensation and for medical services for the injured employee.

"Deposit of any of the reports required by this section in the United States mail, addressed to the director, within the time limit specified shall be deemed compliance with the requirements of this section. [L. 1915, c. 221, s. 56; R. L. 1925, s. 3659; R. L. 1935, s. 7536; am. L. 1939, c. 206, s. 4 and c. 237, pt. of s. 3; R. L. 1945, s. 4449; am. L. 1945, c. 10, s. 1 (11, 12, 13).]"

Series A-74: ACT 160

An Act to Amend Section 4467 of the Revised Laws of Hawaii 1945, Relating to Workmen's Compensation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4467 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 4467. **Termination; retroactive effect.** This subtitle shall cease to be in effect six months after the president of the

United States shall have proclaimed the termination of the present war, except that claims for injuries suffered prior to the expiration of this subtitle may be filed and proceedings had thereon after such expiration, subject to the other provisions of this chapter. Nothing in this section shall be construed to terminate the appropriation made in section 4466 or any award for compensation made before the expiration of this subtitle or made thereafter for injuries suffered before such expiration. The benefits of this subtitle shall apply and be extended to cover any person who, on or after December 7, 1941, was a member of the Hawaii Territorial Guard or any other voluntary organization mentioned in section 4464 and suffered injury or death and who would have been covered by this subtitle if it had been in effect on or after December 7, 1941." [L. 1943, c. 131, s. 4; R. L. 1945, s. 4467; am. L. 1945, c. 160, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1945.) S.B. 353, Act 160.

Series A-75: ACT 257

AM. '49
Sr. A-131 A-132

An Act to Provide for Payment of Hospital and Medical Expenses of Persons Injured While Performing Voluntary Service for the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4467.01.] Section 1. [Volunteer personnel, medical, etc. expenses.] Any person who may be injured in performing service for the Territory in any voluntary or unpaid capacity under the authorized direction of an officer or employee of the Territory, and who shall not have secured payment of his hospital and medical expenses from the Territory or any county under any other provision of law and shall not have secured payment thereof from any third person, shall be paid his reasonable hospital and medical expenses under the provisions of this Act. [L. 1945, c. 257, s. 1.]

[Sec. 4467.02.] Section 2. [Appropriation.] So much of the territorial insurance fund as may be necessary is hereby appropriated and shall, with the approval of the governor, be expended to pay claims which may be found to be due under this Act. [L. 1945, c. 257, s. 2.]

[Sec. 4467.03.] Section 3. [Administration and procedure.] This Act shall be administered by the bureau of workmen's compensation of the department of labor and industrial rela-

tions. Procedure in respect of claims hereunder, including procedure upon appeals, shall correspond to the procedure provided under chapter 77 of the Revised Laws of Hawaii 1945 with respect to workmen's compensation claims. Notice of injury shall be given to the head of the department for which the injured person is performing service, and said department head shall report the injury to the bureau of workmen's compensation. The commission of labor and industrial relations may make such rules and regulations as may be necessary or convenient for carrying out the provisions of this Act. [L. 1945, c. 257, s. 3.]

[Sec. 4467.04.] Section 4. [Time for giving notice, etc.] Any time fixed for giving of notice of injury or for any other substantive purpose as to any injuries within the purview of this Act which may have occurred prior to the effective date thereof, but subsequent to December 7, 1941, shall be construed to run from such effective date. [L. 1945, c. 257, s. 4.]

Section 5. This Act shall take effect upon its approval.
(Approved May 21, 1945.) S.B. 186, Act 257.

Title 10. PUBLIC LANDS.

Chapter 78. MANAGEMENT, ETC.

Series A-76: ACT 96

An Act to Add a New Section to Chapter 78 of the Revised Laws of Hawaii 1945, to be Known as Section 4524.01, Relating to the Establishment of Rights of Way to the Sea.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. A new section is hereby added to Chapter 78 of the Revised Laws of Hawaii 1945, to be known as Section 4524.01 and to read as follows:

"Sec. 4524.01. Rights of way to the sea. Before offering any lease for sale, as provided by sections 4541 to 4551, both inclusive, of lands abutting upon the sea, the commissioner shall lay out and establish over and across such lands a reasonable number of roads or trails, from established highways or belt roads to the beaches, in order that the public may have access to the said beach or beaches."]L. 1945, c. 96, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) H.B. 369, Act 96.

[Note: For road surveys, appropriations, etc., see Index, topic: "Appropriations"; see also s. 6521 (33), R. L. 1945, re prohibition to sell lands on Oahu bordering on the ocean.]

Series A-77: ACT 123

AM. '49

Sr. A-68, A-105
cor. 4526 RE

An Act Relating to Management and Disposition of Public Lands; Providing for Construction of Roads and Pipe Lines; Amending Sections 4526 and 4527 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4526 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 4526. Proceeds of residence and business lot sale; construction of roads and pipe lines for residence and business lots. The proceeds, or so much thereof as may be deemed necessary, of any public lands opened for residence or business purposes, including interest on deferred payments, may be designated by the commissioner, with the approval of the governor, as required, for the construction of roads to and through the lands from which such proceeds may be derived, and for the construction of pipe lines to supply said lands with water from the nearest water supply system, and when so designated shall be deemed to be and are appropriated for the construction of such roads and pipe lines. Such appropriations shall be disbursed and shall lapse in like manner and upon like conditions as set forth in section 4525." [L. 1911, c. 62, s. 2; am. L. 1917, c. 237, s. 2; R. L. 1925, s. 475; R. L. 1935, s. 1580; R. L. 1945, s. 4526; am. L. 1945, c. 123, s. 1.]

Section 2. The first paragraph of section 4527 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 4527. Road and pipe line construction by counties; reimbursement therefor, restrictions. The commissioner, with the approval of the governor, may from time to time enter into agreements or contracts with the several counties or city and county for the construction by the latter of any road or roads, and for the construction of pipe lines to supply said lands with water from the nearest water supply system, based on plans and specifications prepared by the counties or city and county and approved by the commissioner, to, in or through tracts opened for homestead, residence or business purposes."

Section 3. This Act shall take effect on its approval.
(Approved May 8, 1945.) H.B. 663, Act 123.

Note: The rest of § 4527 reads:

"Such agreements or contracts may cover the construction of any such roads as may be built out of county moneys, or out of any territorial moneys available under any legislative appropriation, where such appropriation acts do not specifically provide that such agreements or contracts may be

made with the various counties, or out of any moneys available under sections 4525-4526, or partly out of county moneys and partly out of territorial moneys for any such road or roads or part or parts thereof, authorized under any such legislative appropriation or under sections 4525-4526.

The county, upon receipt of such agreement or contract, shall call for tenders for the construction of such road as provided in section 351, and may as in said section provided, elect to construct the road at cost or may sublet and contract with other parties, for the construction, in which case the commissioner shall be furnished with two certified copies of the sub-contract.

The county shall be reimbursed by the Territory, for so much of its moneys as may be expended under any such agreement entered into as herein provided, out of any moneys not otherwise appropriated and available under the terms of sections 4525-4526 for the construction of roads in the tracts in question, the reimbursements to be by warrants drawn by the auditor based on vouchers approved by the commissioner.

Roads constructed as herein provided shall be maintained by the county in which they are located. [[L. 1913, c. 66, s. 1; R. L. 1925, s. 476; am. L. 1925, c. 278, ss. 1, 2; R. L. 1945, s. 4527; am. L. 1945, c. 123, s. 2.]]

[See Index, topic "Appropriations"]

Title 11. PUBLIC UTILITIES.

Chapter 82. PUBLIC UTILITIES COMMISSION.

Series A-78: ACT 189

An Act to Amend Section 4719 of the Revised Laws of Hawaii 1945, Relating to the Issuance by the Public Utilities Commission of Certificates of Public Convenience and Necessity.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4719 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 4719. Certificates of public convenience and necessity. It is declared unlawful for any common carrier operating upon and using the public highways to furnish such service without first obtaining from the commission a certificate declaring that public convenience and necessity require such operation and service. The commission shall have power and it shall be its duty after public hearing to issue such certificate as prayed for or to refuse to issue the same, or to issue it for the partial exercise only of the privilege sought and may attach to the exercise of the rights granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require; **provided**, however, that the business of

any public utility which presents evidence of bona fide operation on February 15, 1933, shall be presumed to be necessary to public convenience and necessity. No such certificate shall be issued for a term of more than eight years. The commission may at any time suspend, alter or amend any certificate issued, and after hearing for cause may revoke any such certificate. Said common carriers shall operate and furnish service in strict conformity with the current existing terms and provisions of their respective certificates of convenience and necessity, except in cases of emergency to be defined by rules laid down by the commission." [L. 1933, c. 169, pt. of s. 4; R. L. 1945, s. 4719; am. L. 1945, c. 189, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 222, Act 189.

[Note: See R. L. 1945, s. 6643, approval of Honolulu planning commission.]

[Note: Franchise, see Act 32, E-218, post, Hilo Electric, etc. Co.]

Title 12. PUBLIC WELFARE.

Chapter 85. SPECIFIC FUNCTIONS.

Series A-79: ACT 157

An Act to Amend Section 4827 of the Revised Laws of Hawaii 1945, Relating to General Duties of the Department of Public Welfare.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4827 of the Revised Laws of Hawaii 1945 is hereby amended by amending paragraph numbered "(9)" thereof to read as follows:

"[9] Supervise or administer any other activities authorized or required by this chapter, including the development of the staff of the department through in-service training and educational leave to attend schools and other appropriate measures, and any other activities placed under the jurisdiction of the department by any other law."

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1945.) H.B. 672, Act 157.

[Sec. 4827, amended by deleting par. 5, Act 113, A-81, post.]

Series A-80: ACT 161

An Act to Amend Section 4828 of the Revised Laws of Hawaii 1945, Relating to the Department of Public Welfare.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4828 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the word "fifty" in the twelfth line thereof the word "eighty".

Section 2. This Act shall take effect upon its approval.
(Approved May 14, 1945.) H.B. 67, Act 161.

[Note: § 4828 deals with medical care, etc., and burial of indigent dead. This amendment increases the maximum burial charge, the sentence amended reading: "... The department is also authorized to bear the cost of the burial of indigent persons up to, but not exceeding the sum of eighty dollars . . ."]

Series A-81: ACT 113

An Act to Amend Chapter 85 of the Revised Laws of Hawaii 1945, Relating to Public Welfare, and to Add to Title 12 of Said Revised Laws a New Chapter, Providing for an Independent Bureau of Sight Conservation and Work with the Blind, and Appropriating Funds Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4827 of the Revised Laws of Hawaii 1945 is hereby amended by deleting therefrom subsection (5) of said section; provided, that this section shall not be construed to deprive the department of public welfare of jurisdiction and power to administer the provisions of chapters 84 and 85 relating to public assistance and medical care and hospitalization for the blind or in eye cases, subject to the amendments made by this Act to chapters 84 and 85 and subject to chapter 85.01.

[Sec. 4827, further amended, ante A-79, Act 157.]

Section 2. Section 4850 of said Revised Laws is hereby amended to read as follows:

"Sec. 4850. Determination of amount of assistance. The amount of public assistance granted, including funds received from the federal government, shall not exceed in the case of any applicant an amount in excess of that determined upon investigation or by the decision of the department to be com-

patible with maintaining decency and health. In granting public assistance to an aged or blind person the department may take into consideration part or all of the needs of such person's dependents, provided they are eligible for public assistance; in the event that such grant has taken into consideration only part of the needs of such dependents such grant shall be without prejudice to a separate grant of assistance to such dependents or any of them, as may be proper upon consideration of their remaining needs and in compliance with the provisions of this chapter." [L. 1941, c. 296, pt. of s. 1; R. L. 1945, s. 4850; am. L. 1945, c. 113, s. 2.]

Section 3. Section 4853 of said Revised Laws is hereby amended by adding at the end thereof a new sentence reading as follows:

"It is provided, however, that in administering this section, the department shall cooperate as far as possible with the bureau of sight conservation and work with the blind."

Note: As so amended, § 4853 reads:

"Sec. 4853. Examination of blind. The department shall not approve an application for public assistance to a blind person until the applicant has been examined by an ophthalmologist or a qualified physician designated by it to make such examinations. The examining person shall certify to the department the diagnosis, prognosis, and visual acuity of the applicant. Certification shall be on forms prescribed by the department. It is provided, however, that in administering this section, the department shall cooperate as far as possible with the bureau of sight conservation and work with the blind. [L. 1941, c. 296, pt. of s. 1; R. L. 1945, s. 4853; am. L. 1945, c. 113, s. 3.]"

Section 4. Title 12 of said Revised Laws is hereby amended by adding thereto a new chapter, to be numbered chapter 85.01 and to read as follows and contain the provisions hereinafter provided:

"CHAPTER 85.01. BUREAU OF SIGHT CONSERVATION AND WORK WITH THE BLIND.

"Sec. 4871. Bureau created; appointment of director and subordinates; general powers. There is hereby created an independent bureau, to be known as the 'Bureau of Sight Conservation and Work with the Blind', hereinafter referred to as the 'bureau', the head of which shall be known as the 'Director, Bureau of Sight Conservation and Work with the Blind'. Such director shall be appointed and be removable by the governor pursuant to chapter 2, shall be a member of the civil service system, and shall receive such compensation as shall be determined pursuant to chapter 3. The bureau shall administer work with and for the blind, including the registry of the blind, voca-

tional guidance, training and placement in employment, and other services, including the conduct of activities for sight conservation and prevention of blindness, but not including public assistance under chapters 84 and 85 or medical care (except examinations under section 4853)." [L. 1945, c. 113, pt. of s. 4.]

[Sec. 4871.01, added by Act 125, A-82, post.]

Section 5. Sections 4857 to 4862, both inclusive, in chapter 85 of said Revised Laws, are hereby deleted from said chapter 85 and made a part of chapter 85.01 hereby created, and as such are hereby amended by substituting for the word "department" wherever the same appears in said sections, the word "bureau", and by renumbering said sections, in the order in which they appear in said chapter 85, as sections 4872, 4873, 4874, 4875, 4876 and 4877, respectively.

Section 6. There are hereby added to said chapter 85.01, two additional sections reading as follows:

"Sec. 4878. Medical care and hospitalization; services of department of public welfare physicians. The bureau is authorized to call upon the department of public welfare to furnish, under section 4828, medical care and hospitalization in cases involving optical appliances, or hospitalization or treatment of eye cases, and the findings and recommendations of the bureau in such matters shall be binding upon said department as to need for optical appliances, hospitalization or treatment of eye cases, and said department shall, within the limits of available appropriations, furnish such medical care, appliances and hospitalization as is certified and recommended by the bureau to be, in its judgment, proper under section 4828 and this section. Physicians employed by the department of public welfare shall be available to the bureau for consultation, examinations and other services, the cost of which services shall be deemed legitimate expenses of said department. [L. 1945, c. 113, pt. of s. 6.]

"Sec. 4879. Protection of records; divulging confidential information prohibited; penalties; payments to blind inalienable. Sections 4825 and 4826, relating to protection of records, divulging confidential information and penalties, and section 4838 concerning inalienability of payments to the blind, are hereby made applicable to the bureau in the same manner as if said sections were reenacted in this chapter with the substitution therein of the bureau for the department." [L. 1945, c. 113, pt. of s. 6.]

Section 7. There is hereby appropriated, for the biennium ending June 30, 1947, out of the public welfare fund created by section 5358, and also provided for by section 4811, of said

Revised Laws the sum of one hundred sixty-seven thousand eight hundred and three dollars (\$167,803.00), to be expended pursuant to chapter 25 of said Revised Laws, on vouchers approved by the director, bureau of sight conservation and work with the blind, for any of the purposes of the said bureau, including, but not limited to, personal services, other current expenses, equipment, motor vehicles, structures and permanent improvements to land, eye glass and medical care, shop revolving fund and handicraft and vending stand establishment fund. Nothing in this section shall be deemed to limit the applicability of section 4878 of said Revised Laws or the funds available under said section.

Section 8. Upon the effective date of this Act, all records, equipment and personnel of the division of sight conservation and work with the blind, as the same existed prior to the amendments made by this Act, shall be forthwith transferred to the bureau of sight conservation and work with the blind created as an independent bureau under this Act, without loss of vacation allowance, service credit and other rights and privileges on the part of such personnel, including the director of said division who shall be the director of said independent bureau until and unless such director shall resign or be removed pursuant to law. Any unexpended balances of donations, and any unexpended balances in the fund known as "Shop Revolving Fund and Handicraft" as of June 30, 1945, shall be transferred to the sole jurisdiction of said independent bureau hereby created.

Section 9. This Act shall take effect upon July 1, 1945.
(Approved May 8, 1945.) H.B. 534, Act 113.

Series A-82: ACT 125

An Act to Authorize the Bureau of Sight Conservation and Work with the Blind to Provide Vocational Rehabilitation for Blind Persons.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4871.01.] Section 1. [Vocational rehabilitation of blind.] The bureau of sight conservation and work with the blind shall be authorized to provide vocational rehabilitation for blind persons. [L. 1945, c. 125, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) S.B. 379, Act 125.

Series A-83: ACT 265

An Act to Require, with Certain Exceptions,
Common or Public Carriers of Passengers or of Pas-
sengers and Freight to Carry Blind Persons and the
Companion-Guide Dogs Accompanying Them.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4879.01.] Section 1. [Blind person and guide dog on public carrier.] No common or public carrier of passengers or of passengers and freight, whether by vehicle, railroad, ship or airplane, shall refuse or neglect to carry any blind person accompanied by a companion-guide dog or to carry the companion-guide dog accompanying such person, except because of a reason which would justify such refusal or neglect if such person were neither blind nor accompanied by such dog, or because of such dog's being unclean or out of the control of such blind person or otherwise dangerous to other passengers of such carrier. Under this section no such dog shall be considered dangerous merely because unmuzzled. [L. 1945, c. 265, s. 1.]

[Sec. 4879.02.] Section 2. [Misdemeanor, penalty.] Any common or public carrier which shall, and any officer or employee of any common carrier who shall violate, or shall cause such carrier to violate, section 1 of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or, if a natural person, by imprisonment for not more than one year or both such fine and such imprisonment. [L. 1945, c. 265, s. 2.]

Section 3. This Act shall be construed to be intended to be effective to, and only to, the extent of the lawful legislative power of the legislature of the Territory of Hawaii and shall take effect accordingly upon its approval.

(Approved May 22, 1945.) S.B. 381, Act 265.

Title 13. PUBLIC WORKS.
Chapter 87. AERONAUTICS.

Series A-84: ACT 181

An Act to Amend Section 4930 of the Revised Laws of Hawaii 1945, Relating to Airports, Charges for Use Thereof and Expenditures Therefrom.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4930 of the Revised Laws of Hawaii 1945 is hereby amended by amending paragraph numbered 4 thereof to read as follows:

"4. The exclusive control and operation of all territorially owned or leased airports, including without prejudice to the generality of the foregoing the power to grant leases and licenses, to determine the rents payable therefor and the other conditions thereof, and to fix and collect reasonable landing fees for aircraft and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished in connection therewith, for the purpose of meeting the expenses of operation and maintenance of the airports, for which purpose the revenues from such fees and charges are hereby appropriated to be expended by the superintendent of public works."

Section 2. This Act shall take effect upon its approval.
(Approved May 15, 1945.) S.B. 305, Act 181.

[See Index, topic "Appropriations" for airport funds; also Act 82, A-87, section 5 (c), post.]

Series A-85: ACT 182

An Act to Create an Airport Zoning Board with Power to Promulgate Airport Zoning Regulations Limiting the Height of Structures and Objects of Natural Growth, and Otherwise Regulating the Use of Property, in the Vicinity of Airports, to Provide for the Administration and Enforcement of Such Regulations, and to Authorize the Superintendent of Public Works to Acquire, by Purchase, Grant, or Condemnation, Air Rights and Other Interests in Land; to Provide Penalties and Remedies for Violations of this Act or of any Regulation Made Under the Authority Conferred Herein; and Providing Funds for the Administration of this Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

[CHAPTER 87A. AIRPORT ZONING ACT.]

[Sec. 4935.01.] Section 1. **Definitions.** As used in this Act, unless the context otherwise requires:

(1) "Airport" means any area of land or water designed and set aside for the landing and taking-off of aircraft and utilized or to be utilized in the interest of the public for such purposes.

(2) "Airport hazard" means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to such landing or taking-off of aircraft, and "approach protection" means protection against an airport hazard.

(3) "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Act.

(4) "Board" means the airport zoning board created by section 10.

(5) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or any trustee, receiver, assignee, or other similar representative thereof; or the Territory or any of its political subdivisions, or agencies thereof.

(6) "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(7) "Superintendent" means the superintendent of public works.

(8) "Tree" means any object of natural growth. [L. 1945, c. 182, s. 1.]

[Sec. 4935.02.] Section 2. **Airport hazards contrary to public interest.** It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared: (a) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and (c) that this should be accomplished, to the extent legally possible, by ex-

ercise of the police power, without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes. [L. 1945, c. 182, s. 2.]

[Sec. 4935.03.] Section 3. **Power to adopt airport zoning regulations.** In order to prevent the creation or establishment of airport hazards, the board may adopt, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for any airport hazard area in the Territory, which regulations may divide such area into zones, and, within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow, subject to the provisions of section 6. [L. 1945, c. 182, s. 3.]

[Sec. 4935.04.] Section 4. **Relation to comprehensive zoning regulations.** In the event of conflict between any airport zoning regulations adopted under this Act and any ordinances or other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by or under the authority of the Territory or by or under the authority of a county, the more stringent limitation or requirement shall govern and prevail, the provisions of section 6637 of the Revised Laws of Hawaii 1945 notwithstanding. [L. 1945, c. 182, s. 4.]

[Sec. 4935.05.] Section 5. **Procedure for adoption of zoning regulations.** (1) **Notice and hearing.** Prior to the adoption or amendment of airport zoning regulations a public hearing shall be held, after notice as provided in section 466 of the Revised Laws of Hawaii 1945, except that such notice shall be published not less than fifteen days before the date set for the hearing.

(2) **Recommendations for zoning.** Prior to the adoption or amendment of airport zoning regulations under this Act the superintendent shall submit to the board his recommendations with respect thereto. At least ninety days prior to the public hearing on the initial zoning of any airport hazard area, the superintendent shall notify the city planning commission for the city and county of Honolulu, in the case of an airport hazard area within said city and county, the territorial planning board, and any boards or commissions of a similar nature which may be concerned, and thirty days before such public hearing such boards and commissions may file with the superintendent their recommendations as to the boundaries of the various zones to be

established and the regulations to be adopted therefor. The superintendent shall give due consideration to recommendations so filed, and at the time of submission of his recommendations to the board shall also transmit such recommendations with his comments thereon. All recommendations filed with or transmitted to the board shall be considered by it and shall be made available to the governor and the public. [L. 1945, c. 182, s. 5.]

[Sec. 4935.06.] Section 6. **Airport zoning requirements.**

(1) **Reasonableness; publication.** All airport zoning regulations adopted under this Act, and any amendment thereof, shall be subject to the approval of the governor, and when so approved and published in a newspaper of general circulation in the Territory, or in the county in which the airport hazard area is situated, shall have the force and effect of law. Such regulations shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this Act. In determining what regulations it may adopt, the board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

(2) **Non-conforming uses.** No airport zoning regulations adopted under this Act shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any non-conforming use, except as provided in section 7. [L. 1945, c. 182, s. 6.]

[Sec. 4935.07.] Section 7. **Permits and variances.** (1) **Permits.** Any airport zoning regulations adopted under this Act may require that before any new structure or use may be constructed or established, and before any existing use or structure may be substantially changed or substantially altered or repaired, a permit be obtained authorizing such structure, change, alteration, or repair. In any event, however, all such regulations shall provide that before any non-conforming structure or tree may be replaced, substantially altered or repaired, rebuilt, or replanted, a permit must be secured from the superintendent authorizing such replacement, change or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming structure or tree or non-conforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application

for a permit is made. Except as provided herein, all applications for permits shall be granted.

(2) **Variances.** Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property in violation of airport zoning regulations adopted under this Act, may apply to the board for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations and this Act; provided that any variance may be allowed subject to any reasonable conditions that the board may deem necessary to effectuate the purposes of this Act.

(3) **Hazard markings and lighting.** In granting any permit or variance under this section, the superintendent or board of adjustment may, if it deems such action advisable to effectuate the purposes of this Act and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the Territory, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard. [L. 1945, c. 182, s. 7.]

[Sec. 4935.08.] **Section 8. Appeals.** (1) Any person aggrieved by any order, requirement, determination, or decision of the superintendent made in his administration of airport zoning regulations adopted under this Act (all of which are hereafter referred to as the "decision") may appeal therefrom to the board.

(2) All appeals taken under this section must be taken within twenty days after a copy of the decision was mailed or delivered to the applicant concerned, by filing with the superintendent and with the board a notice of appeal specifying the grounds thereof. The superintendent shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken, or copies thereof. The superintendent shall be a party to the proceedings before the board.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the superintendent certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the board on notice to the superintendent and on due cause shown.

(4) The board shall give public notice and due notice to the parties in interest, and decide the appeal within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(5) The board may, in conformity with the provisions of this Act, reverse or affirm wholly or partly, or modify the decision appealed from and may make such decision as ought to be made, and to that end shall have all the powers of the superintendent. [L. 1945, c. 182, s. 8.]

[Sec. 4935.09.] **Section 9. Administration of airport zoning regulations.** All airport zoning regulations adopted under this Act shall provide for the administration and enforcement of such regulations by the superintendent, whose duties shall include that of hearing and deciding upon all applications for permits under section 7 (1), but the superintendent shall not have or exercise any of the powers delegated to the board by section 7 (2). [L. 1945, c. 182, s. 9.]

[Sec. 4935.10.] **Section 10. Airport zoning board.** (1) There shall be an airport zoning board, consisting of three members appointed by the governor in the manner provided by section 80 of the Organic Act, for a term of five years and until their successors are appointed and qualify; **provided**, however, that of the first members appointed under the provisions of this Act, one shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Thereafter every appointment shall be for a term of five years commencing from the date of expiration of the preceding term. Any vacancy shall be filled by appointment for the remainder of the unexpired term. The governor shall designate one of the members of said board as chairman. Section 482 of the Revised Laws of Hawaii 1945 (quorum) and section 84 of the Organic Act and section 9573 of said Revised Laws (disqualification) shall apply to said board and the members thereof. The governor may appoint an acting member to serve in the event of the temporary absence from the Territory, illness or disqualification of a member. The members of the board shall be paid for their services at the rate of fifteen dollars per day for each day's actual attendance upon their duties but not exceeding seventy-five dollars per member in any one month. They shall also be paid such reasonable traveling and other expenses as may be incurred in the discharge of their duties. Office accommodations, clerical services and the services of a reporter when necessary shall be furnished by the superintendent, who shall pay for such services, and also the compensation and other expenses of the board, out of any funds available for meeting the expenses of operation or maintenance of airports.

Members of the city planning commission of the city and county of Honolulu, the territorial planning board, and boards and commissions of a similar nature, and members of boards or commissions of which the superintendent is a member or chairman, the functions of which are not incompatible with the functions of the airport zoning board, shall be eligible to appointment to said board.

(2) [**Powers.**] The board shall have and exercise the following powers:

(a) To hear and decide appeals from any decision made by the superintendent in the enforcement of the airport zoning regulations, as provided in section 8.

(b) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such board may be required to pass under such regulations.

(c) To hear and decide specific variances under section 7 (2).

(d) To determine whether there is a right to compensation or damages and, if so, the amount thereof, and to award such damages, as provided by section 11.

(3) [**Meetings.**] Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses, and the production of books, papers and records. Any circuit court or judge thereof shall have power to enforce by proper proceedings the attendance and testimony of such witnesses and the production of such books, papers and records. Witnesses shall be allowed their fees and mileage as in cases in the circuit courts.

(4) [**Hearings.**] All hearings of the board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of all of its official actions, all of which shall immediately be filed in the office of the board and shall be a public record. [L. 1945, c. 182, s. 10.]

[**Sec. 4935.11.**] Section 11. **Judicial review; right of compensation.** (1) The superintendent or any person aggrieved by any decision of the board may appeal from such decision to the supreme court of the Territory by filing with such court a petition for review thereof, setting forth the grounds of appeal. Such appeal shall be perfected within thirty days after the decision is filed in the office of the board and a copy thereof mailed or delivered to the applicant concerned and the superintendent, or within such further time as may be allowed by the

court. The superintendent and the applicant shall be the parties to the review proceeding. The petition for review shall be served upon the respondent in such manner as may be prescribed by the court and the proceedings thereon shall be as prescribed by the court. The court may, on application and notice to the parties and on due cause shown, grant a stay or restraining order upon such terms and conditions as it may prescribe. The board shall be notified of such petition by the clerk of the court, and shall certify and file with the court a copy of the record, in such form and including such matters and within such time as may be prescribed by the court.

In any such proceeding for a judicial review, the jurisdiction of the court shall be confined to questions of law. No additional evidence shall be received by the court but the court may order additional evidence to be taken before the board, and the board may, after hearing such additional evidence, modify its decision, and the board shall file such modified decision, together with a transcript of the additional record, with the court. Upon the final termination of any such judicial review, the board shall enter a decision in accordance with the mandate of the court.

(2) Any person who appeals from a decision of the superintendent to the board under section 8, or who files with the board an application for a variance or exception, may at his option include in the notice of appeal or application a request for determination, in the event the appeal or application is denied, in whole or in part, of his right to compensation or damages, and the amount thereof, if he be so entitled. In such event the board shall include in its decision a determination of such questions in accordance with subsection (4) of this section and section 314 of the Revised Laws of Hawaii 1945, but its decision thereon shall not be final if either the superintendent, or such person, shall serve notice on the other, within thirty days after the decision of the board is filed and a copy thereof mailed or delivered to the applicant concerned and the superintendent, that he requires a court determination of such questions, or any of them. If such notice is served by either party, the judicial review allowed by subsection (1) shall be had in the suit provided for by subsection (3) and not otherwise. If no such notice is served and no petition for judicial review is filed, or if a petition for judicial review is filed, then upon the final termination thereof and the entry of a decision (if required) in accordance with the mandate of the supreme court, the award of compensation or damages so made, if any, shall be paid by the superintendent out of any money available in the territorial airport fund created by section 5260 of the Revised Laws of Hawaii 1945, as soon as such amount becomes available in said fund, or out of any appropriation available

for the acquisition of land or interests therein for the airport concerned.

(3) If the superintendent or any party shall serve notice that he requires a court determination of the right to compensation or damages, or the amount thereof, as provided by subsection (2), or if any party, notwithstanding he did not invoke action on such questions by the board, shall serve notice on the superintendent, within thirty days after the decision of the board is filed and a copy thereof mailed or delivered to the applicant concerned and the superintendent, that he requires a court determination of the right to compensation or damages, and the amount thereof if he be so entitled, the superintendent, within thirty days thereafter, or such further time as may be allowed by the court, shall file an action for the determination of such questions with the circuit court of the circuit in which the airport hazard area is situated, and the judicial review allowed by subsection (1) shall be had in the same action, in lieu of direct review by the supreme court. Failure to file such action shall be deemed an abandonment of the application of the airport zoning regulations to the structure or parcel of land to which the decision of the board applies. Such action shall be heard and determined as if it were a condemnation suit filed on behalf of the Territory as provided by section 13, except that the court shall first review the decision of the board, if such review is sought by either party, and shall determine, if the point is put in issue by the superintendent, whether or not the party is entitled to compensation or damages. The right, if any, to compensation or damages shall be deemed to have accrued as of the date of the filing with the superintendent or the board, as the case may be, of the application for a permit, variance, or exception.

(4) In any proceeding before the board or any court proceeding under this section a party shall be deemed entitled to compensation or damages if the decision of the board interferes with his use or enjoyment of a particular structure or parcel of land to such an extent, or is so onerous in its application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the Organic Act or the Constitution of the United States, but not otherwise, and no compensation or damages shall be awarded if the airport zoning regulations, as applied, represent a lawful exercise of the police power not calling for the payment of compensation or damages.

(5) If the defendant recovers compensation or damages and the Territory fails to pay the amount assessed within two years after final judgment, as provided by section 316 of the Revised Laws of Hawaii 1945, the same shall be deemed an abandon-

ment of the application of the airport zoning regulations to the structure or parcel of land to which the decision of the board applies, and in such event, or upon abandonment of the application of such regulations to such structure or parcel of land in any other manner, the party aggrieved, if he would have been entitled to compensation or damages had the application of the regulations not been so abandoned, shall be entitled to have his damages adjudged under section 318 of the Revised Laws of Hawaii 1945, and may institute an action for that purpose if no action has been filed by the superintendent. Such damages shall be paid by the superintendent of public works out of any money available in the territorial airport fund created by section 5260 of the Revised Laws of Hawaii 1945, as soon as such amount becomes available in said fund.

(6) In the event it should be finally held by the board or by a court, upon any proceeding for review or for the determination of the right to compensation or damages, brought under this section, that any airport zoning regulation adopted under this Act, or any decision of the board hereunder, interferes with the use or enjoyment of a particular structure or parcel of land to such an extent, or is so onerous in its application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the Organic Act or the Constitution of the United States, the party in whose favor such decision is made shall be allowed by the board or court his reasonable expenses of the proceeding, not exceeding five thousand dollars in any one proceeding, which shall be paid by the superintendent of public works out of any money available in the territorial airport fund created by section 5260 of the Revised Laws of Hawaii 1945, as soon as such amount becomes available in said fund. For the purposes of this section "one proceeding" shall be deemed to include all of the proceedings from the time of the application for a permit, variance or exception to the time of the final decision or judgment of the court to which resort is last had by either of the parties.

(7) In any case in which airport zoning regulations adopted under this Act, although generally reasonable, are finally held to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the Organic Act or the Constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land. [L. 1945, c. 182, s. 11.]

[Sec. 4935.12.] Section 12. **Enforcement and remedies.** Each wilful violation of subsection (1) of section 7 of this Act, or of any regulations, orders, or rulings promulgated or made pursuant to this Act, shall constitute a misdemeanor and shall be punishable by a fine of not more than one thousand dollars or imprisonment for not more than ninety days or by both such fine and imprisonment. In addition the superintendent may institute, in any court of competent jurisdiction, an action in the name of the Territory to prevent, restrain, correct or abate any violation of this Act, or of airport zoning regulations adopted under this Act, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this Act and of the regulations adopted and orders and rulings made pursuant thereto. [L. 1945, c. 182, s. 12.]

[Sec. 4935.13.] Section 13. **Acquisition of air rights.** In any case in which (1) it is desired to remove, lower or otherwise terminate a non-conforming structure or use; or (2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this Act; or (3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the superintendent, on behalf of the Territory may acquire, by purchase, grant, or condemnation in the manner provided by chapter 8 of the Revised Laws of Hawaii 1945, such air right, aviation easement, or other estate or interest in the property or non-conforming structure or use in question as may be necessary or proper to effectuate the purposes of this Act, including acquisition of a fee simple estate. [L. 1945, c. 182, s. 13.]

[Sec. 4935.14.] Section 14. **Severability.** If any section, sentence, clause, or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid. [L. 1945, c. 182, s. 14.]

[Sec. 4935.15.] Section 15. **Short title.** This Act shall be known and may be cited as the "Airport Zoning Act." [L. 1945, c. 182, s. 15.]

Section 16. **Amendment of other laws.** All acts or parts of acts which are inconsistent with the provisions of this Act are hereby amended to conform herewith.

Section 17. **Effective date.** This Act shall take effect upon its approval.

(Approved May 15, 1945.) S.B. 306, Act 182.

Chapter 89. FEDERAL-AID HIGHWAYS.

Series A-86: ACT 172

An Act to Require that the Approval of the Territorial Highway Engineer be Secured for the Installation or Placing of Signs or Markings on Federal-Aid Highways.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 89 of the Revised Laws of Hawaii 1945 is hereby amended by inserting therein a new section, to read as follows:

"Sec. 4964.01. **Signs and markings on federal-aid highways.** On any federal-aid highway, the location, form, and character of informational, regulatory, and warning guideposts, direction boards, signs, curb and pavement or other markings, and traffic signals, hereafter installed or placed by or under the authority of any county, shall be subject to the approval of the territorial highway engineer, or his authorized representative. The territorial highway engineer shall exercise the authority hereby conferred upon him in such manner as to protect and promote the securing of federal aid for highways." [L. 1945, c. 172, s. 1.]

Section 2. Section 6124 of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end thereof a new sentence to read as follows:

"**Provided**, that the board shall comply with the provisions of section 4964.01."

Section 3. Section 6521 of the Revised Laws of Hawaii 1945 is hereby amended by amending paragraph 12 thereof by adding at the end thereof a new sentence to read as follows:

"**Provided**, that the board and the commission shall comply with the provisions of section 4964.01."

Section 4. This Act shall take effect upon its approval.

(Approved May 15, 1945.) H.B. 501, Act 172.

Series A-87: ACT 82

An Act Relating to the Financing of Highways and Other Public Improvements of the Territory and the Counties, Including Maintenance as well as New Improvements, and Including Financing of Outstanding Bonds; Repealing Sections 4970, 4971 and 4973, and Amending Sections 4972, 5252, 5254, 5260, and 5924 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Sections 4970, 4971 and 4973 of the Revised Laws of Hawaii 1945 are hereby repealed.

Section 2. Section 4972 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 4972. Maintenance of federal-aid roads. The maintenance work on all roads upon which federal-aid funds have been expended shall be performed under the direction and supervision of the territorial highway engineer, either by public employment or by contract, or the territorial highway engineer may have the same performed by the county road department, by public employment or by contract, upon authorization of the board of supervisors of the county concerned. Expenditures for such maintenance work shall be made from the territorial highway fund created by section 5260." [L. 1929, c. 53, pt. of s. 1; R. L. 1935, s. 1720; R. L. 1945, s. 4972; am. L. 1945, c. 82, s. 2.]

[Sec. 4973.01-.07, new, permits to disturb federal-aid highways, see A-88, Act 173, post.]

[Sec. 4975.01-.06, new, "Post-War Highway Fund, see A-85, Act 182, post.]

Section 3. Section 5252 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(a) By deleting items (2) and (4) from the form of county budget which appears on page 616, together with the entries relating thereto, or space therefor, under columns I, II and III.

(b) By deleting the second and fourth paragraphs on page 617, which relate to said items (2) and (4).

[See amended form next page.]

Note to § 5252:

Form of County Budget:

COUNTY OF

BUDGET FOR THE CALENDAR YEAR

| | COLUMN I | COLUMN II Amounts De- ductible from, or otherwise available for respec- tive items. | COLUMN III Itemized amounts to be raised from prop- erty tax. |
|--|----------|--|--|
| Item No. Estimated Expenditures | | | |
| (1) Territorial bonds issued for county purposes (interest on term and serial bonds, sinking fund for term bonds and principal of all serial bonds maturing the following year) the proceeds of which have been or are to be expended for other than highway purposes..... | | | |
| (Item 2 deleted by Act 82, A-87.) | | | |
| (3) General county bonds (interest on term and serial bonds, sinking fund for term bonds and principal of all serial bonds maturing the following year) the proceeds of which have been or to be expended for other than highway purposes..... | | | |
| (Item 4 deleted by Act 82, A-87.) | | Water reve- nues, etc. | |
| (5) Schools, special fund..... | | | |
| (6) County contributions specifically required by law to institutions | | | |
| (7) County contributions to the Employees' Retirement System of the Territory..... | | | |
| (8) Other county items fixed by law | | | |
| (9) Permanent improvements and current and operating expenses | | | |
| Total items (1) to (9)..... | | | |
| (10) Total amounts to be raised by real property tax..... | | | |
| (11) Amount to be raised by personal property tax for county purposes | | | |
| OTHER ESTIMATED COUNTY REVENUES AND EXPENDITURES | | | |

Bond Funds. For item (1) under column I the treasurer, on or before January 31 of each year, shall compute and submit to the board of supervisors of each county the amounts which are payable to or retainable by the Territory for such county for that calendar year to meet interest charges for term and serial bonds, sinking fund charges for term bonds, and the principal for all serial bonds maturing the following calendar year, which bonds have been issued by the Territory for county purposes and the proceeds of which have been or are to be expended for other than highway purposes.

For item (3) under column I the board of supervisors of each county shall compute the amounts payable by such county for such calendar year to meet interest charges for term and serial bonds, sinking fund charges for term bonds, and the principal for all serial bonds maturing the following calendar year, which bonds have been issued by such county and the proceeds of which have been or are to be expended for other than highway purposes.

School Funds. For item (5) under column I the amount for such county shall be the amount of the special school fund budget for such county for such calendar year itemized in the manner specified in section 1802."

(The balance of § 5252 is continued on Pages 617 and 618, R. L. 1945, without any changes.)

[See also transfer of bond obligations from the counties to the Territory under Act 8, E-220, post.]

Section 4. Section 5254 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(a) By deleting from lines six and fifteen thereof the figure "(2)", together with the comma preceding the same.

(b) By deleting from lines nine and eleven thereof the figure "(4)", together with the comma preceding the same.

Section 5. Section 5260 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5260. Fuel tax, disposition of proceeds. (a) There are created in the treasury of the Territory two special funds to be known, respectively, as territorial highway fund and territorial airport fund. All taxes collected under chapter 100 in each calendar year shall be deposited in the territorial highway fund; provided, however, that all taxes collected under chapter 100 in respect to gasoline sold for use and used in airplanes shall be set aside in the territorial airport fund.

(b) **Territorial highway fund.** (1) From the moneys in the territorial highway fund the treasurer of the Territory shall pay to each county treasurer each year, when and as required by such county treasurer, the amount needed by such county for the payment of the interest on term and serial bonds, sinking fund charges on term bonds due during such year, and payments of principal of serial bonds which are due during the following year, on all bonds issued by such county for highway purposes

prior to January 1, 1945, including bonds the payment of the principal and interest of which is required by law to be made out of the permanent improvement fund of the county, and including bonds issued for the refunding of any of the foregoing. Each county treasurer shall hold and use such funds for the aforesaid purposes only, and shall under no circumstances allow any part thereof to be used for any other purpose.

(2) The remaining moneys in the territorial highway fund shall be expendable by the territorial highway department for the design, construction, reconstruction, repair, and maintenance of, and for engineering and acquisition of rights of way for, highways in the Territory upon which federal moneys are expendable or have been expended, pursuant to the provisions of chapter 89, and the Federal Highway Act and legislation supplementary thereto; provided that the expenditures from such fund for new construction work including acquisition of rights of way, shall be so apportioned to the counties by the territorial highway engineer that, as nearly as practicable and to the extent allowable under the Federal Highway Act and other federal legislation, there shall be expended for each county the estimated amount of its share of the collections remaining after the deduction of charges for bonds and maintenance, such estimate to be made by the territorial highway engineer except as hereinafter stated, and to be computed on the following basis: There shall be credited to each county the amount of the collections made each year for fuel sold or used within such county, provided that fuel sold in one county for use in another shall be credited to the county in which the same is to be used. The tax commissioner shall estimate the amount of the collections for each county for the year. There shall be charged against the total collections for the entire Territory for the year the amount of the bond requirements of the several counties for the year pursuant to paragraph (1) of this subsection, as determined by the respective county treasurers. The tax commissioner and the county treasurers shall certify such amounts to the territorial highway engineer and the territorial treasurer on or before January 31 of each year. There further shall be charged against the total collections for the entire Territory for the year the cost for the year of repairs and maintenance of federal aid highways, including the cost of equipment and general administrative overhead. The balance remaining after the deduction of charges for bonds and maintenance shall be divided among the several counties in proportion to their credits for collections, and the amount so determined for each county shall be deemed its share of the collections remaining after the deduction of charges for bonds and maintenance. If the actual share of any county for the

year, as determined at the close of the calendar year upon the basis of actual collections, repairs and maintenance, exceeds or is less than the expenditure for such county for such year for new construction, such excess shall be added or such deficiency deducted in determining the share of such county for the following year.

(c) **Territorial airport fund.** The moneys in the territorial airport fund shall be expended by the superintendent of public works for the construction, repair and maintenance of the territorial airports or territorial hangars, including the acquisition of real property and interests therein." [R. L. 1945, s. 5260; am. L. 1945, c. 82.]

Section 6. Section 5924 of the Revised Laws of Hawaii 1945 is hereby amended by inserting therein a new paragraph following the first full paragraph on page 722, (that is, following the twenty-seventh line on page 722), to read as follows:

"Notwithstanding the foregoing provisions that bond requirements shall be allocated between the counties and the Territory on the basis of the amount of bonds issued by the Territory the proceeds of which have been expended for county purposes and for territorial purposes, there shall be allocated to the Territory all bonds the proceeds of which have been expended for highway purposes."

Note: As so amended, § 5924 reads:

"**Sec. 5924. Additional payments to sinking fund.** The treasurer shall, during the month of January of each year, first, calculate and determine the amount of assets actually on hand, accumulated as provided for in section 5923, in the sinking fund and in the special reserve in the sinking fund as of December 31 of the year next preceding, and, second, shall calculate and estimate, as of said December 31, the amount of assets required to be in the sinking fund and the said special reserve, as provided for in section 5923. If the amount of assets estimated as required to be in the sinking fund and the said special reserve shall exceed the amount of assets actually therein, as of said December 31, then he shall calculate and determine the portion or portions of said excess properly chargeable and allocable to each county and to the Territory, on the basis of the amount of bonds issued by the Territory the proceeds of which have been expended for county purposes and for territorial purposes, as the case may be, whether or not said bonds have been refunded, or redeemed, or matured. He shall next calculate and determine the amount or amounts to be paid annually by each county and the Territory, up to and including the year 1957, that the aggregate amount of such additional payments, together with interest thereon compounded annually at the rate of two per centum, will aggregate the amount of the excess plus loss of interest required by section 5923 to be earned thereon, up to and including the year 1957.

The treasurer shall next calculate and estimate the total amount of interest which will be lost to the sinking fund on account of the with-

drawal from the special reserve in the sinking fund of amounts of moneys representing payments on account of the principal of serial refunding bonds issued to refund term bonds. The rate of interest to be used for the calculation of such loss of interest shall be the actual interest earning of the sinking fund for the calendar year immediately preceding the year in which the calculation is made. He shall then determine the portion or portions of such estimated loss of interest properly chargeable and allocable to each county and to the Territory, on the basis of the amount of bonds issued by the Territory and which have been refunded by such serial refund bonds, the proceeds of which have been expended for county purposes and for territorial purposes. He shall then calculate and determine the amount or amounts to be paid annually by each county and the Territory, up to and including the year 1957, that the aggregate amount of such additional payments, together with interest thereon compounded annually at the rate of two per centum, will aggregate the amount of interest estimated will be lost on account of such withdrawals.

Notwithstanding the foregoing provisions that bond requirements shall be allocated between the counties and the Territory on the basis of the amount of bonds issued by the Territory the proceeds of which have been expended for county purposes and for territorial purposes, there shall be allocated to the Territory all bonds the proceeds of which have been expended for highway purposes.

The treasurer shall report the above fact or facts to the governor and, with his approval, he shall then transfer the estimated additional amounts required to be paid from the general fund to the sinking fund and the said special reserve.

The additional amount or amounts above determined to be paid by each county shall be furnished by the treasurer on or before January 31, together with any other amounts required to be furnished by law, to the board of supervisors of each county and shall be included in the budget of the county as provided for by section 5252, under the item designated as 'other county items fixed by law.'

All amounts necessary for the purposes of this section are hereby deemed appropriated out of the general fund of the Territory. [L. 1941, c. 230, s. 1; R. L. 1945, s. 5924; am. L. 1945, c. 82, s. 6.]"

[See also Act 8, E-220, post, re retirement of certain territorial bonds out of territorial funds.]

Section 7. The true intent and meaning of this Act is to relieve the counties of any and all obligations to compensate the Territory with respect to territorial bonds issued for highway purposes, including airports, as of the effective date of this Act, and such bond requirements shall be met out of the general fund of the Territory in the manner provided by law with respect to other territorial bonds.

Section 8. All laws or parts of laws inconsistent with this Act are hereby amended to conform to this Act; provided that nothing in this Act shall be deemed to amend sections 4967 to 4969, inclusive, of the Revised Laws of Hawaii 1945 or to prevent the application of said sections in the cases therein mentioned.

Section 9. This Act shall take effect as of January 1, 1945. For the year 1945 the certificates required to be submitted by subsection (b) (2) of section 5260 of the Revised Laws of Hawaii 1945, as amended by this Act, shall be submitted within ten days after the approval of this Act, in lieu of January 31.

(Approved May 3, 1945.) S.B. 277, Act 82.

Series A-88: ACT 173

An Act Requiring that a Permit be Obtained Before any Federal-Aid Highway is Dug Up or Disturbed; Prescribing the Requirements to Obtain such Permit and the Duties and Obligations of any Permit Holder; Providing for the Charging of Fees for such Permits; and Prescribing Penalties for Violations.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4973.01.] Section 1. [Federal-aid highway not to be disturbed, etc., without permit.] No person or governmental agency, whether federal, territorial, or county, shall, in any manner or for any purpose, break up, dig up, disturb, undermine or dig under or cause to be broken up, dug up, disturbed, undermined or dug under, the improved portion of any federal-aid highway within the Territory without having first obtained a written permit therefor from the territorial highway engineer or his authorized representative. [L. 1945, c. 173, s. 1.]

[Sec. 4973.02.] Section 2. [Permits, fees, etc.] Any person or governmental agency desiring the permit required in this Act shall make application therefor to the territorial highway engineer on a form prescribed by said engineer. Said engineer may prescribe in said permit the place where the work is to be done. Such permit shall be issued upon the condition, and any applicant securing the issuance of a permit shall be deemed to have thereby undertaken, that he will adhere to the requirements of the standard specifications for excavating and back-filling openings prescribed as set forth in section 3, and to the requirements of section 4.

The applicant for such permit shall be required to pay, at the time of making application, a fee of twenty-five cents per lineal foot for the first fifty feet or less and two and one-half cents per lineal foot for all in excess of fifty feet of opening that is to be cut across or along said highway, but no such fee shall be less than seven and one-half dollars; provided that such fee requirement shall not apply in any case where under

the constitution or laws of the United States such fee cannot legally be imposed; and **provided**, further, that no fee shall be required where the only work involved is the setting of poles and guys to carry overhead wires. If the application is not approved the fee shall be returned to the applicant. [L. 1945, c. 173, s. 2.]

[Sec. 4973.03.] Section 3. [Specifications for excavating, backfilling.] Standard specifications outlining procedures to be followed in excavating and backfilling openings in federal-aid highways shall be prescribed by the territorial highway engineer, and a copy thereof shall be kept on file in his office; a copy thereof also shall be furnished to each applicant for a permit requesting the same. In prescribing such standard specifications the territorial highway engineer need not comply with the provisions of law relating to the adoption of rules and regulations. [L. 1945, c. 173, s. 3.]

[Sec. 4974.04.] Section 4. [Backfilling, repaving, expense on permit holder; enforcement.] (a) All excess materials remaining at the site of the work done under any permit shall be removed therefrom at the expense of the holder of the permit. Such excess material shall not be deposited or placed within any highway right-of-way lines except with the approval of the territorial highway engineer or his authorized representative.

(b) The permit holder shall complete the backfilling of any opening across or along a highway. Immediately upon the completion thereof the holder of the permit shall notify the territorial highway engineer or his authorized representative that the work under the permit is completed and give the number of the permit and the location of the opening. If the opening is in or partly in a pavement and base course, or through a concrete gutter, curb or sidewalk, or any other structure in public use, the highway opening shall then be turned over to the territorial highway engineer for repaving, and for the repairing of such other structures in public use as were cut or damaged by the permit holder.

(c) The territorial highway department upon receipt of the above notice shall cause the proper repairs to be made to restore the base course and surface to its original or equally good condition and shall make the necessary repairs to the concrete gutter, curb or sidewalk or any other structure in public use requiring repair. The territorial highway engineer shall cause bills for such work, including any other work necessitated by failure of the permit holder to comply with the requirements of this Act, to be sent to the holder of the permit, who shall pay to the Territory the amount owing. Such bills shall be

itemized and the amount thereof shall be the actual cost to the Territory of such work, without any allowance for administrative overhead or for a profit.

(d) If bills are not paid within thirty days the account shall be placed in the hands of the attorney general for collection, unless a cash bond has been obtained and the amount thereof is in excess of the amount due. If a cash bond has been obtained the permit holder shall be notified, by a proper statement on the bill, that unless the account is paid within thirty days from the date of mailing of the bill the amount thereof will be withheld from the cash bond, in so far as the bond is adequate therefor, and that if no protest in writing, as provided by section 1575 of the Revised Laws of Hawaii 1945, is filed within such thirty-day period the payment will be deemed to have been made without protest. If such protest is filed within the thirty-day period the payment nevertheless shall be made from the cash bond on the day of filing of the protest, but shall be subject to the provisions of said section 1575. [L. 1945, c. 173, s. 4.]

[Sec. 4973.05.] Section 5. [Deposit of fees, etc.; inspectors.] Fees received from applicants for permits, if the permits are issued, and the reimbursements of costs of work, received from permit holders pursuant to section 4, shall be deposited in the treasury of the Territory and are hereby appropriated for the maintenance of federal-aid highways in the county with respect to which the permits were issued, including the expenses of the inspection herein provided for.

The territorial highway department shall employ one or more inspectors whose duty it shall be to see to it that the work of excavation and backfill of the opening is done in accordance with the standard specifications, and that the permit holder complies with subsections (a) and (b) of section 4 of this Act. [L. 1945, c. 173, s. 5.]

[Sec. 4973.06.] Section 6. [Performance bond.] The territorial highway engineer may require that prior to the issuance of a permit the applicant shall give a bond in favor of the Territory, which shall be a cash bond, surety company bond, or personal surety bond as the territorial highway engineer may require, and shall be in double the estimated amount of the cost of backfilling of material, and the cost of any work to be done by the territorial highway department under section 4. The condition of such bond shall be that the permit holder shall adhere to the requirements of the standard specifications for excavating and backfilling openings, prescribed as set forth in section 3, and to the requirements of section 4. [L. 1945, c. 173, s. 6.]

[Sec. 4973.07.] Section 7. [Penalty for violations.] Any person, including any public officer or employee, who shall violate section 1 of this Act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding two hundred fifty dollars or by imprisonment not exceeding three months, or by both such fine and imprisonment. [L. 1945, c. 173, s. 7.]

Section 8. If any section, sentence, clause or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 9. This Act shall take effect upon its approval.
(Approved May 15, 1945.) H.B. 502, Act 173.

Series A-89: ACT 164

An Act Providing for the Repair, Rehabilitation, Reconstruction, and New Construction of Highways, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4975.01.] Section 1. [Definitions.] For the purposes of this Act:

(a) "Highway" means any public highway of the Territory of Hawaii or of any of its political subdivisions, including any place which constitutes a public highway under the laws of the Territory.

(b) "Normal maintenance" means the constant making of needed repairs to preserve a smooth surfaced highway.

(c) "Defense Highway Act of 1941" means the act of November 19, 1941, as amended (55 Stat. 768, amended 57 Stat. 560), or as the same may be hereafter amended. [L. 1945, c. 164, s. 1.]

[Sec. 4975.02.] Section 2. ["Post-War Highway Fund".] There is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, the sum of two million dollars, which shall be expended upon vouchers approved by the territorial highway engineer for any or all of the purposes

stated in section 3, within each of the counties designated in the following schedule, in the amount scheduled for such county, to wit:

| | |
|----------------------------------|--------------|
| City and County of Honolulu..... | \$1,000,000. |
| County of Hawaii..... | 460,000. |
| County of Maui..... | 300,000. |
| County of Kauai..... | 240,000. |

Said sums shall be deposited in a special fund for each county to be known as the "Post-War Highway Fund" of such county. [L. 1945, c. 164, s. 2.]

[Sec. 4975.03.] Section 3. [Use of fund.] The foregoing moneys shall be used:

(a) For expenditures for rehabilitation and other necessary work on highways, if and to the extent that such expenditures are determined by the commissioner of public roads, or other authorized federal official, to be reimbursable by the United States pursuant to section 10 of the Defense Highway Act of 1941;

(b) For reconstruction and new construction of, and other necessary work on, highways upon which federal aid funds have been or hereafter shall be expended, whether or not such expenditures are reimbursable by the United States pursuant to the aforesaid section 10 of the Defense Highway Act of 1941; **provided**, that no expenditure shall be made under this paragraph for normal maintenance.

(c) Expenditures made pursuant to paragraphs (a) and (b) may include expenditures for preliminary surveys, preparation of plans and specifications, and acquisition of real property and interests therein, as well as other necessary expenditures. [L. 1945, c. 164, s. 3.]

[Sec. 4975.04.] Section 4. [Securing reimbursement.] The territorial highway engineer is hereby authorized and directed to take all necessary steps to procure reimbursement for expenditures made pursuant to paragraph (a) of section 3. The moneys so reimbursed shall be deposited in the "Post-War Highway Fund" of the appropriate county, and are hereby reappropriated for the purposes stated in said section 3. [L. 1945, c. 164, s. 4.]

[Sec. 4975.05.] Section 5. [Fund in addition to, not in lieu of other funds.] The appropriation made by this Act shall be in addition to and not in lieu of any other appropriation for the same purposes. **Provided**, that whenever expenditures are made from any source for the purposes stated in paragraph (a) of section 3, the territorial highway engineer is authorized and

directed to take all necessary steps to procure reimbursement for such expenditures, and the moneys so reimbursed shall be deposited in and shall be deemed to have been reappropriated for the purposes of the fund from which the expenditures were made. [L. 1945, c. 164, s. 5.]

[Sec. 4975.06.] Section 6. [Appropriations and aid by counties.] The several boards of supervisors are hereby authorized to place under the control and at the disposal of the territorial highway engineer funds for reconstruction and other necessary work on highways upon which moneys appropriated by this Act are to be expended, pursuant to section 3, and the territorial highway engineer is hereby authorized to do such work in conjunction with the work for which moneys have been appropriated by this Act. The funds so placed under the control of the highway engineer may include funds appropriated by the legislature for expenditure by the board, provided the money will be expended for the project designated by the legislature. [L. 1945, c. 164, s. 6.]

Section 7. This Act shall take effect upon its approval.
(Approved May 14, 1945.) H.B. 483, Act 164.

Chapter 90. HARBORS.

Series A-90: ACT 112

An Act Relating to Harbor Board Funds and the Expenditure Thereof; Providing for Residences for Harbor Masters; Providing for the Harbor Board Special Fund, Harbor Board Reserve Fund, and Waterfront Facilities Rehabilitation Fund, and the Purposes Thereof; and Amending Sections 4990 and 4998 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4990 of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end of the first paragraph thereof two new sentences to read as follows:

"Whenever necessary in the judgment of the board, in order to provide suitable residences for wharfingers in the vicinity of the ports and harbors for which they are appointed, the board may acquire such residences, or may acquire the land therefor and erect suitable improvements, using any funds available for structures and permanent improvements to land. Such residences shall be rented

to the wharfingers at reasonable rates, and when not required for the accommodation of the wharfingers may be temporarily rented to others."

[See also Act 8, E-220, s. 5, post.]

Note: As so amended, § 4990 reads:

"Sec. 4990. Wharfingers; fees. The board shall appoint wharfingers for the harbors of Honolulu, Hilo and Kahului, and for such other ports and harbors as in their opinion have need thereof. They shall fix the compensation of such wharfingers, and their assistants, and shall certify the names and compensation thereof to the auditor of the Territory. The board shall likewise fix the duties and powers of such wharfingers and their assistants relative to shipping, wharves, docks, anchorages and mooring places. Whenever necessary in the judgment of the board, in order to provide suitable residences for wharfingers in the vicinity of the ports and harbors for which they are appointed, the board may acquire such residences, or may acquire the land therefor and erect suitable improvements, using any funds available for structures and permanent improvements to land. Such residences shall be rented to the wharfingers at reasonable rates, and when not required for the accommodation of the wharfingers may be temporarily rented to others.

The fees for services of wharfingers at the ports of Honolulu, Kahului and Hilo, until changed by law or by rule or regulation of the board, shall be five dollars in addition to his disbursements for the use of boats and warps, and for labor in mooring or making fast such vessels; and if necessarily detained on board any vessel for more than two hours at any one time, he shall be paid at the rate of two dollars an hour for such extra detention, and for each time that he is called upon, or that it may be necessary for him, to board any such vessel after having once moored her properly, he shall be entitled to receive the same fee. The fees for services of wharfingers at other ports shall be determined by the board. Such fees shall be payable either to the clerk of the board, or to such wharfinger or his assistant, who shall account therefor as may be required by the board, to the clerk of the board. [L. 1911, c. 163, s. 7; am. L. 1913, c. 150, s. 4; R. L. 1945, s. 4990; am. L. 1945, c. 112, s. 1.]"

Section 2. Section 4998 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 4998. Harbor board special fund. The funds collected by the board under section 4996 in excess of the appropriation for bond requirements made by section 4997, and all other revenues resulting from the financial operations of or for the account of the board, shall be deposited in the treasury of the Territory to the credit of the harbor board special fund, which fund is hereby created. Payments from such special fund shall be made by the treasurer upon vouchers signed by the chairman or acting chairman of the board, for the purposes hereinafter stated.

Out of said fund may be paid any expenses of operation of the board, including salaries, wages or other compensation, of all employees of or under the board, the operation, main-

tenance, repair, replacement and reconstruction of harbor board facilities, engineering, investigation and planning, and any and all other outlays or expenditures not otherwise restricted in this section, all or any of which in the judgment of said board are or may be necessary or proper in the performance of its duties or functions. No part of said fund shall be used to increase salaries except as authorized by other provisions of law. The board may expend from said fund not to exceed one hundred thousand dollars in any one year, of which not to exceed twenty-five thousand dollars shall be expended on any one island, for new structures and permanent improvements to land or for acquisition of real property or interests therein, but the afore-said limitations shall not apply to the expenses of engineering, investigation or planning of such facilities, nor to expenditures for replacement or reconstruction of existing harbor board facilities.

The harbor board may cause work to be performed by day labor or by contract or by any other method deemed by the board to be most advantageous to the territory.

The board may make transfers from said fund to the harbor board reserve fund which is hereby created, in such amounts and at such times as it shall determine, but the amount of such reserve fund shall not at any time exceed seven hundred and fifty thousand dollars. Said reserve fund may be expended for any of the purposes of and in the same manner as the harbor board special fund and shall be subject to the same limitations as said special fund. No amount held in or paid from said reserve fund shall be used to reduce the rates assessable or chargeable by the board under section 4996, but in computing its expenses under section 4996 the board shall not include any amount for the purpose of increasing or replenishing the reserve fund." [L. 1941, c. 142, s. 2; am. L. 1943, c. 97, s. 1; R. L. 1945, s. 4998; am. L. 1945, c. 112, s. 2.]

Section 3. There is hereby appropriated from the harbor board special fund the sum of \$800,000 which amount shall be held in the treasury of the Territory in a fund to be known as the waterfront facilities rehabilitation fund, for the period hereinafter set forth. Expenditures therefrom may be made during the period ending three years after the termination of hostilities in the present war, for repair, replacement and reconstruction of pier and wharf facilities and other facilities of the harbor board, upon vouchers signed by the chairman or acting chairman of the board. Such expenditures may include but are not limited to work performed by day labor or by contract or by any other method deemed by the board to be most advantageous to the Territory, the purchase of materials, and the rental of equipment. No amount held in or paid from said waterfront

facilities rehabilitation fund shall be used to reduce the rates assessable or chargeable by the board under section 4996 of the Revised Laws of Hawaii 1945. After the expiration of the aforesaid period such fund shall be closed out into the harbor board special fund in the manner provided by section 1596 of the Revised Laws of Hawaii 1945.

Section 4. This Act shall take effect on July 1, 1945 and the transfer to the harbor board bond fund which otherwise would have been made on said date shall not be made, said harbor board bond fund being eliminated by this Act.

(Approved May 8, 1945.) H.B. 482, Act 112.

[Note: Bonds, etc., see Appendix, Note 8, post, Act 8, E-220; Act 120, E-221; also Biennial Appropriation, Act 272, F-230; cable-way Kalaupapa, Act 203, F-235.]

Title 14. TAXATION.

Chapter 94. ADMINISTRATION AND REAL PROPERTY TAX.

Series A-91: ACT 79

An Act to Amend Chapter 94 of the Revised Laws of Hawaii 1945, Relating to the Administration of Tax Laws and Real Property Taxes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5101 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5101. Definitions. Wherever used in this chapter and in chapter 95:

'Assessor' or 'assistant assessor' shall mean the assessor or an assistant assessor appointed for the taxation division concerned. Whenever there is more than one assessor for the first division, with respect to said division 'assessor' or 'assistant assessor' shall mean the assessor or assistant assessor designated by the commissioner for a particular tax;

'Auditor' shall mean the auditor of the Territory;

'Property' or 'real property' shall mean and include all land and appurtenances thereof and the buildings, structures, fences and improvements erected on or affixed to the same, excluding, however, any growing crops, all machinery and other mechanical or allied equipment and the foundations thereof, telephone, telegraph and electric poles, lines, conduits and appurtenant

equipment, pipelines, gas and water mains and appurtenant equipment, penstocks and forebays, railroads (including rails, ties, switches and appurtenant equipment, but not including roadbeds, cuts, fills, bridges, trestles, culverts and the land itself, which latter items shall be deemed real property), and any other fixtures expressly required by law to be assessed and taxed as personal property; provided, that to the extent required by the provisions of other chapters incorporating this chapter or chapter 95 by reference, such terms shall also mean and include other subjects or measures of tax." [L. 1932, 2nd, c. 40, s. 1; R. L. 1935, s. 1900; am. L. 1935, c. 153, s. 1; R. L. 1945, s. 5101; am. L. 1945, c. 79, s. 1.]

Section 2. Section 5104 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By amending paragraph numbered 1 thereof to read as follows:

"1. **Appointment, removal of assessors, etc.** To appoint and remove at pleasure an assistant commissioner and such deputy commissioners as may be found necessary, one or more assessors for the first division and one assessor for each other division (each of whom shall keep offices at such places in his division as the commissioner shall direct), and such assistant assessors and other assistants as the commissioner may deem necessary properly and effectually to perform the duties of assessing property for taxation; provided, however, that such assistant commissioner and such deputies, assessors and assistants shall have all of the powers of the commissioner in respect of matters within the scope of their duties;"

[Sec. 5104, paragraph 9, amended by Act 196, A-92, post.]

2. By amending paragraph 10 thereof to read as follows:

"10. **Powers over subordinates.** Except where such construction would lead to absurdity or impossibility, he shall be deemed to have power to do or perform any act or duty which any subordinate of his is authorized or required to do or perform by this chapter, and any such action so taken by the commissioner shall supersede action thereon by his subordinate; such power also shall pertain to the assistant commissioner and each deputy commissioner in respect of matters within the scope of his duties;"

3. By changing the period at the end thereof to a semicolon and by adding thereto two new paragraphs to read as follows:

"14. **Compromises.** With the approval of the governor, to compromise any claim arising under any tax law the administration of which is within the scope of the commissioner's

duties; and in any such case there shall be placed on file in his office a statement of (a) the amount of tax assessed, or proposed to be assessed, (b) the amount of penalties and interest imposed or which could have been imposed by law with respect to the preceding item, as computed by the commissioner, (c) the total amount of liability as determined by the terms of the compromise, and the actual payments made thereon with the dates thereof, and (d) the reasons for the compromise;

15. Retroactivity of rulings. To prescribe the extent, if any, to which any ruling, regulation or construction of the tax laws, of general application, shall be applied without retroactive effect."

Note: As amended by Act 79, A-91 and by Act 196, A-92, § 5104 reads:

"**Sec. 5104. Commissioner, general duties and powers.** The commissioner shall have the following duties and powers, in addition to any others prescribed or granted by this chapter, subject, however, to the provisions of chapters 2 and 3:

1. **Appointment, removal of assessors, etc:** To appoint and remove at pleasure an assistant commissioner and such deputy commissioners as may be found necessary, one or more assessors for the first division and one assessor for each other division (each of whom shall keep offices at such places in his division as the commissioner shall direct), and such assistant assessors and other assistants as the commissioner may deem necessary properly and effectually to perform the duties of assessing property for taxation; **provided**, however, that such assistant commissioner and such deputies, assessors and assistants shall have all of the powers of the commissioner in respect of matters within the scope of their duties;

2. **Appointment, removal of collectors, etc.:** To appoint with the approval of the governor a collector of taxes for each taxation division, to be known as the 'tax collector' of such division, and to appoint as many assistant tax collectors and assistants to or for each tax collector as, in his opinion, may be required properly to perform the duties of collecting taxes, and at his pleasure to remove any of them;

3. **Assessment:** To assess, pursuant to law, all real property for taxation and to make any other assessment by law required to be made by him;

4. **Collection:** He shall be responsible for the acts of all tax collectors, assistant tax collectors and their assistants, and for the collection of all taxes imposed by this chapter;

5. **Construction of revenue laws:** To construe the tax and revenue laws, the administration of which is within the scope of the commissioner's duties, whenever requested by any officer acting under such laws, or by an interested person;

6. **Enforcement of penalties:** To see that penalties are enforced when prescribed by any tax or revenue law of the Territory (the administration of which is within the scope of the commissioner's duties) for disobedience or evading of its provisions, and to see that complaint is made against persons violating any such law; in the execution of these powers

and duties he may call upon the attorney general or any of his deputies, including the county attorneys or public prosecutors, whose duties it shall be to assist in the institution and conduct of all proceedings or prosecutions for penalties and forfeitures, liabilities and punishments for violation of the laws in respect to the assessment and taxation of property;

7. **Forms:** To prescribe forms to be used in or in connection with such assessment, including forms to be used in the making of returns by taxpayers or in any other proceedings connected with the assessment, and to change the same from time to time as he shall deem necessary;

8. **Furnish blanks, etc.:** To furnish to all assessors, assistant assessors, tax collectors and assistant tax collectors all books, blanks, stationery and other supplies necessary for the performance of their respective duties and functions;

9. **Inspection, examination of records:** To inspect and examine the records of all public officers without charge, and to examine the books and papers of account of any person for the purpose of enabling him to obtain all information that could in any manner aid him in discharging his duties under any tax law;

10. **Powers over subordinates:** Except where such construction would lead to absurdity or impossibility, he shall be deemed to have power to do or perform any act or duty which any subordinate of his is authorized or required to do or perform by this chapter, and any such action so taken by the commissioner shall supersede action thereon by his subordinate; such power also shall pertain to the assistant commissioner and each deputy commissioner in respect of matters within the scope of his duties;

11. **Recommendations for legislation:** To recommend to the governor such amendments, changes or modifications of the laws as may seem proper or necessary to remedy injustice or irregularity in taxation or to facilitate the assessment of property for taxation or any other assessment of or for taxes;

12. **Report to governor:** To report to the governor annually, and at such other times and in such manner as the governor may require, concerning his acts and doings and the administration of his office, and such other matters of information concerning taxation as may be deemed of general interest;

13. **Rules and regulations:** To make such rules and regulations as he may deem proper effectually to carry out the purposes for which his office is constituted and to regulate matters of procedure by or before his department;

14. **Compromises:** With the approval of the governor, to compromise any claim arising under any tax law the administration of which is within the scope of the commissioner's duties; and in any such case there shall be placed on file in his office a statement of (a) the amount of tax assessed, or proposed to be assessed, (b) the amount of penalties and interest imposed or which could have been imposed by law with respect to the preceding item, as computed by the commissioner, (c) the total amount of liability as determined by the terms of the compromise, and the actual payments made thereon with the dates thereof, and (d) the reasons for the compromise;

15. Retroactivity of ruling: To prescribe the extent, if any, to which any ruling, regulation or construction of the tax laws, of general application, shall be applied without retroactive effect. [L. 1932, 2d, c. 40, ss. 18, 20, 57, 58; R. L. 1935, s. 1907; R. L. 1945, s. 5104; am. L. 1945, c. 79, s. 2 and c. 196, s. 1.]

Section 3. Section 5105 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By inserting in the first line thereof, after the words "tax commissioner", the following:

"assistant tax commissioner,".

2. By inserting in the schedule of amounts of bonds on page 589, following the line relating to the tax commissioner, a new line to read as follows:

"Assistant tax commissioner 10,000.00".

Section 4. Section 5107 of the Revised Laws of Hawaii 1945 is hereby amended by inserting after the words "tax commissioner", in the second line, the following:

"assistant tax commissioner,".

Section 5. Section 5108 of the Revised Laws of Hawaii 1945 is hereby amended by inserting after the words "tax commissioner", in the second line, the following:

"assistant tax commissioner,".

[New section 5110.01, added by Act 196, A-92, post.]

Section 6. Section 5114 of the Revised Laws of Hawaii 1945 is hereby amended by inserting a comma after the words "tax commissioner" and by further inserting following the comma, in the second line, the following:

"assistant tax commissioner,".

Section 7. Section 5137 of the Revised Laws of Hawaii 1945 is hereby amended by inserting after the words "tax commissioner" in the first line the following:

"assistant tax commissioner,".

Section 8. Section 5140 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5140. Time as of which levy and assessment made. Real property shall be assessed, and taxes shall be levied thereon, each year as of January 1 of such year, upon the basis of valuations determined in the manner and at the time provided in this chapter." [L. 1932, 2d, c. 40, s. 25; R. L. 1935, s. 1934; am. L. 1939, c. 208, s. 3; R. L. 1945, s. 5140; am. L. 1945, c. 79, s. 8.]

Section 9. Section 5146 of the Revised Laws of Hawaii 1945 is hereby amended by amending the third paragraph thereof to read as follows:

"Buildings shall be valued and assessed each year upon the basis of the cost of replacement less proper depreciation due to age, condition and utility or obsolescence. The commissioner shall determine and require the use of averaged basic unit replacement cost factors."

Section 10. This Act shall take effect July 1, 1945.
(Approved May 3, 1945.) S.B. 113, Act 79.

Note: As so amended, § 5146 reads:

"Sec. 5146. **Valuations; considerations in fixing; buildings re-valued yearly; records.** It shall be the duty of the commissioner to cause to be determined and assessed the value of all taxable real property by appropriate systematic methods so selected and applied as to secure, as far as possible, uniform and equalized results throughout the Territory. Complete records shall be compiled and kept in each division which shall show in detail the methods used and the consideration given to elements of value which have influenced the values determined.

In determining values the land in each taxation district shall be classified in accordance with its character and use, and whenever feasible to do so a unit of quantity shall be established for each class. Whenever land has been divided into lots or parcels which are used or suitable for use for residential, commercial or other urban or village purposes, the unit of quantity shall be so chosen as to permit of the use of mathematical tables or formulas designed to determine equitably the effect, upon the value, of street or highway frontages, depth from the street or highway, shape, distance from street corners, and any other physical elements which affect value, whether to increase or decrease the same. The commissioner shall select and require the use of such tables in assessing land for all areas where this can be done appropriately. In other areas such unit of quantity shall be selected and used as is appropriate. In determining the value of land consideration shall be given to the advantage or disadvantage of location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, productivity and nature of use, and further to selling prices, and to the opinions of persons who may be considered to have special knowledge of land values, and further to all other influences whether similar to those listed or not, which fairly and reasonably bear upon the question of value.

Buildings shall be valued and assessed each year upon the basis of the cost of replacement less property depreciation due to age, condition and utility or obsolescence. The commissioner shall determine and require the use of averaged basic unit replacement cost factors.

For informative and statistical purposes, the commissioner shall similarly cause to be determined and assessed the value of all non-taxable real property in each division. [L. 1932, 2d, c. 40, s. 26; R. L. 1935, s. 1935; am. L. 1939, c. 208, s. 4; R. L. 1945, s. 5146; am. L. 1945, c. 79, s. 9.]

[See s. 5140, as above amended, land valuation every year.]

Series A-92: ACT 196

An Act to Amend Chapter 94 of the Revised Laws of Hawaii 1945 by Amending Section 5104 Thereof and by Adding Thereto a New Section Relating to Investigations by the Tax Commissioner.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 94 of the Revised Laws of Hawaii 1945 is hereby amended by amending paragraph numbered 9 of section 5104 thereof to read as follows:

"9. **Inspection, examination of records.** To inspect and examine the records of all public officers without charge, and to examine the books and papers of account of any person for the purpose of enabling him to obtain all information that could in any manner aid him in discharging his duties under any tax law."

[Sec. 5104 also amended by Act 79, A-91, ante; see note to that act for re-written section.]

Section 2. Chapter 94 of the Revised Laws of Hawaii 1945 is hereby further amended by adding thereto a new section to be numbered 5110.01 and to read as follows:

"Sec. 5110.01. **Hearings and subpoenas.** The commissioner, and any representative of the commissioner duly authorized by him, shall have power to conduct any inquiry, investigation, or hearing, relating to any assessment, or the amount of any tax, or the collection of any delinquent tax, including any inquiry or investigation into the financial resources of any delinquent taxpayer or the collectibility of any delinquent tax. The commissioner or other person conducting such hearing shall have power to administer oaths and take testimony under oath relating to the matter of inquiry or investigation, and to subpoena witnesses and require the production of books, papers, documents and records pertinent to such inquiry. If any person shall disobey such process, or, having appeared in obedience thereto, shall refuse to answer pertinent questions put to him by the commissioner or other person conducting such hearing, or to produce any books, papers, documents or records pursuant thereto, the commissioner or other person conducting such hearing may apply to the circuit court of the circuit wherein the inquiry or investigation is being conducted, or to any judge of said court, setting forth such disobedience to process or refusal to answer, and said court or such judge shall cite such person to appear before said court or such judge to answer

such questions or to produce such books, papers, documents or records, and upon his refusal so to do commit such person to jail until he shall testify, but not for a longer period than sixty days. Notwithstanding the serving of the term of commitment by any person, the commissioner may proceed in all respects as if the witness had not previously been called upon to testify. Witnesses (other than the taxpayer or his or its officers, directors, agents, and employees) shall be allowed their fees and mileage as in cases in the circuit courts, to be paid on vouchers of the commissioner, from any moneys available for expenses of the commissioner.

The provisions of this section shall be in addition to all other provisions of law, and shall apply to any tax within the jurisdiction of the commissioner." [L. 1945, c. 196, s. 1.]

Section 3. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 301, Act 196.

Series A-93: ACT 243

An Act Exempting from Taxation all Property Actually and Solely Used in the Manufacture of Cement, and all Gross Proceeds of Sales of Cement Manufactured, in the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 5147.01.] Section 1. [Exemption of property for manufacture of cement.] All property in the Territory, both real and personal, actually and solely used, whether by the owner or a lessee thereof, in connection with the manufacture of cement, shall be exempt from all property taxes for a period of five years from December 31, 1944. [L. 1945, c. 243, s. 1.]

[Sec. 5444.01] Section 2. [Exemption of gross income from cement manufactured in the Territory.] The provisions of chapter 101 of the Revised Laws of Hawaii 1945 shall not apply to the gross proceeds of sales of cement manufactured in the Territory, and such gross proceeds of sale shall be exempt from the tax imposed by said chapter for the period of five years from December 31, 1944. [L. 1945, c. 243, s. 2.]

Section 3. This Act shall take effect upon its approval.
(Approved May 19, 1945.) H.B. 364, Act 243.

Series A-94: ACT 234

AM. '49
Sr. A-153A38

An Act Relating to Certain Specific Exemptions from Taxation of Property of the Veterans of Foreign Wars and Amending Section 5151 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5151 of the Revised Laws of Hawaii 1945, is hereby amended by amending item 55, thereof, to read as follows:

[55.] "All property owned or used exclusively by the Veterans of Foreign Wars of the United States in the Territory."

Section 2. This Act shall take effect upon its approval.
(Approved May 19, 1945.) S.B. 307, Act 234.

Series A-95: ACT 224

AM. '49
Sr. A-153A325

An Act to Amend Section 5151 of the Revised Laws of Hawaii 1945, Relating to Real Property Tax Exemptions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5151 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new paragraph reading as follows:

"61-B. The property situate in Nuuanu Valley and at Wai-kiki belonging to Iolani School, an eleemosynary corporation, so long as the same is used only for educational, religious, hospital or governmental purposes." [L. 1945, c. 224, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 364, Act 224.

M. '49
A-153A385

Series A-96: ACT 221

An Act to Amend Section 5151 of the Revised Laws of Hawaii 1945 Relating to Exemptions from Property Taxes, by Adding Thereto the Property of Punahou School.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5151 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto, after the paragraph numbered 62, the following:

"63. The property of Punahou School, an eleemosynary corporation, provided however, that this property is used for no other than educational, religious, hospital or governmental purposes. Key to taxation map: First division, zone 2, section 8, plat 18, parcel 1." [L. 1945, c. 221, s. 1.]

Section 2. This Act shall take effect on January 1, 1945.
(Approved May 17, 1945.) S.B. 226, Act 221.

Series A-97: ACT 88

An Act Amending Section 5154 of the Revised Laws of Hawaii 1945, Relating to Real Property Exempt from Taxation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5154 of the Revised Laws of Hawaii 1945 is hereby amended by amending subsection 4 thereof by substituting for the words "city and county of Honolulu", in the third and fourth lines of said subsection, the words "any county".

Section 2. This Act shall take effect upon its approval.
(Approved May 5, 1945.) S.B. 308, Act 88.

[Note: § 5154 relates to exemption of public property from real property tax. Par. 4 related to property rendered useless by building restrictions and set-back lines in Honolulu. This amendment carries the exemption to all counties, where any county ordinance brings about a depreciation of property values through set-back lines.]

Series A-98: ACT 220

An Act Relating to Tax Liens, and Liens of Co-Tenants for Taxes Paid by Them: Amending Sections 5167 and 5474 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5167 of the Revised Laws of Hawaii 1945 is hereby amended by deleting therefrom the first two paragraphs thereof and by substituting therefor five paragraphs which shall read as follows:

"Sec. 5167. Liens for taxes; co-owners' rights; foreclosure in equity; limitation. Every tax due upon real property, as defined by section 5101, shall be a paramount lien upon the property assessed, which lien shall attach as of January 1 in each tax year and shall continue for six years; **provided,** that if the land affected shall be registered in the land court, the lien shall expire three years after the lien attached unless, within said three year period, a notice, signed by the tax commissioner or any of his subordinates, setting forth the amount claimed, the tax year or years, the person assessed, the number of the certificate of title of the land affected, and if the lien is not claimed on all the land in the certificate of title, a description sufficiently accurate for identification of the land affected, be filed and registered in the office of the assistant registrar of the land court. The assistant registrar of the land court shall make a notation of the filing thereof on each land court certificate of title so specified. If proceedings for the enforcement or foreclosure of the lien be brought within the applicable period hereinabove designated, the lien shall continue until the termination of said proceedings or the completion of such sale.

In a case of co-tenancy, if one co-tenant shall pay, within the period of the aforesaid government lien, all of the real property taxes, interest, penalties, and other additions to the tax, due and delinquent at the time of payment, he shall have, pro tanto, a lien on the interest of any non-contributing co-tenant upon recording in the bureau of conveyances, within ninety days after the payment so made by said co-tenant, a sworn notice setting forth the amount claimed, a brief description of the land affected by tax key or otherwise, sufficient to identify the same, the tax year or years, and the name of the co-tenant upon whose interest such lien is asserted. When a notice of such tax lien is filed by a co-tenant, the registrar shall forthwith enter the same in an alphabetical index, showing the contents of the notice and the date and hour of filing. He shall file and keep all original notices so filed in numerical order in a file or files

designated 'co-tenants' lien notices'. In case the land affected is registered in the land court the notice shall also contain a reference to the number of the certificate of title of such land and shall be filed and registered in the office of the assistant registrar of the land court, and the registrar, in his capacity as assistant registrar of the land court, shall make a notation of the filing thereof on each land court certificate of title so specified.

Such co-tenant's lien shall have the same priority as the lien or liens of the government for the taxes paid by him, and may be enforced by suit in equity. Such lien shall continue for three years after recording or registering, or until termination of the proceedings for enforcement thereof if such proceedings be begun by bill in equity and notice of the pendency thereof be recorded or filed and registered as provided by law, within said period.

The tax commissioner or his subordinate, in case of a government lien, and the creditor co-tenant, in case of a co-tenant's lien, shall, at the expense of the debtor, upon payment of the amount of the lien, execute and deliver to the debtor a sworn satisfaction thereof, including a reference to the name of the person assessed or co-tenant affected as shown in the original notice, the date of filing of the original notice, a description of the land involved, and the number of the certificate of title of such land if registered in the land court, which, when recorded in the bureau of conveyances or filed and registered in the office of the assistant registrar of the land court, shall, in the case of a co-tenant's lien, be entered with the date of filing in the index of such liens on the line or lines where the notice of the lien so discharged is entered, and if a notation of the original notice was made on any land court certificate of title the filing of such satisfaction shall also be noted on such certificate.

Upon enforcement or foreclosure by the government, in any manner whatsoever, of any such real property tax lien, all taxes of whatsoever nature and howsoever accruing due at the time of the foreclosure sale from the taxpayer against whose property such tax lien is so enforced or foreclosed shall be satisfied as far as possible out of the proceeds of the sale remaining after payment of (1) the costs and expenses of the enforcement and foreclosure including a title search, if any, (2) the amount of subsisting real property tax liens, and (3) the amount of any recorded liens against the property, in the order of their priority."

Note: The rest of § 5167 reads:

"Such liens may be enforced upon the petition of the tax collector to the circuit judge at chambers in the judicial circuit in which is situate the property or a portion thereof (in cases where a parcel lies in two circuits), and jurisdiction is conferred upon the circuit judges at chambers to hear and determine all proceedings brought or instituted to enforce

and foreclose such tax liens, and the proceedings had before the circuit judge at chambers shall be conducted in the same manner and form as ordinary foreclosure proceedings. If the owners or claimants of the property against which a lien is sought to be foreclosed are at the time without the Territory, or if the owners are unknown, and the fact shall be made to appear by affidavit to the satisfaction of the court, and it shall in like manner appear prima facie that a cause of action exists against such absent owners or claimants or against the property described in the petition, or that such absent owners or claimants are necessary or proper parties to the suit, the court may grant an order that the service may be made by publication of the summons. In any such case publication and other substituted service may be made in the manner provided by section 10062.

In any such case it shall not be necessary to obtain judgment and have execution issued and returned unsatisfied, before proceeding to foreclose the lien for taxes in the manner herein provided. [L. 1932, 2d, c. 40, s. 65; R. L. 1945, s. 5167; am. L. 1945, c. 220, s. 1.]

[See R. L. 1945, c. 217, limitation of actions; c. 169, liens; c. 308, registration of conveyances; c. 307, land court. When tax becomes lien, 16 H. 92.]

Section 2. Section 5474 of the Revised Laws of Hawaii 1945 is hereby amended by inserting in the third line thereof preceding the word "property" the word "personal", so that said section 5474, as amended, shall read as follows:

"Sec. 5474. Tax debt due Territory; lien on property used in business. A tax due and unpaid under this chapter shall be a debt due the Territory and shall be a lien upon the personal property used in the business or occupation upon which it is imposed. The lien shall have the same priority as the lien of territorial real property taxes." [L. 1935, c. 141, pt. of s. 13; R. L. 1945, s. 5474; am. L. 1945, c. 219, s. 2.]

Section 3. This Act shall take effect upon its approval; provided, that if the tax commissioner or his subordinate shall file and register a notice of lien in accordance with the provisions of the first paragraph of section 5167 of the Revised Laws of Hawaii 1945, as amended by this Act, on or before October 31, 1945, such notice shall have the same effect as if filed and registered within the three year period therein specified, and shall have the effect of extending the lien to which the notice relates for the maximum period allowed by said section 5167 as amended by this Act; provided, further, that the minimum period of any co-tenant's lien, notice of which was filed before the effective date of this Act, shall be until November 1, 1945, or if proceedings for foreclosure thereof be begun and notice of the pendency thereof be recorded or filed and registered before that date, until termination of the proceedings, any provision of section 5167 of the Revised Laws of Hawaii 1945 as amended by this Act to the contrary notwithstanding.

(Approved May 17, 1945.) S.B. 77, Act 220.

Chapter 95. APPEALS (Taxation.).

Series A-99: ACT 92

An Act to Amend Title 14 of the Revised
Laws of Hawaii 1945, Relating to Tax Appeals.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5217 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5217. Costs; deposit for on appeal to tax appeal or supreme court. The costs to be deposited by the taxpayer on appeal to the tax appeal court shall be one-fifth of one per centum of the amount of valuation in dispute in cases of real property and personal property tax appeals, and five per centum of the amount of taxes in dispute in all other cases, but not less than five dollars in any case.

On appeal to the supreme court, the deposit for costs, and costs chargeable, shall be the same as in appeals to the supreme court from decisions of circuit judges at chambers; if the decision of the supreme court is in favor of the taxpayer, he shall pay no costs for the appeal and any deposit therefor shall be returned to him; if the decision is only partly in favor of the taxpayer, the costs shall be pro-rated in the manner provided by the next section. No costs shall be payable by, and no deposit shall be required from, the assessor in any case." [L. 1932, 2nd, c. 40, s. 49; R. L. 1935, s. 1942; am. by imp. L. 1939, c. 19, s. 4; R. L. 1945, s. 5217; am. L. 1945, c. 92, s. 1.]

Section 2. Section 5218 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5218. Costs, taxation. In the event of an appeal or objection being sustained in whole, the costs deposited shall be returned to the appellant; or if the appeal or objection be sustained in part only, or if an agreement or compromise is made between the appellant and the tax assessor or other proper officer, whereby a reduction is made in the total amount of the valuation assessed (in cases of real property and personal property tax appeals) or the tax assessed (in other cases), then a part of the costs proportionate to the amount for which the appellant shall obtain judgment or proportionate to the amount

of the reduction, as the case may be, shall be returned to the appellant. In the event of dismissal of the appeal without hearing upon the merits the costs deposited in excess of the five dollars minimum shall be returned to the appellant." [L. 1932, 2d, c. 40, s. 50; R. L. 1935, s. 1943; R. L. 1945, s. 5218; am. L. 1945, c. 92, s. 2.]

Section 3. Section 5381 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5381. Appeal; correction of assessment. If any person having made the return and paid the tax as provided by this chapter feels aggrieved by the assessment so made upon him by the tax commissioner, he may appeal from said assessment in the manner and within the time and in all other respects as provided in section 5535, for which purpose the word 'income' shall be deemed to refer to value. The hearing and disposition of such appeal, including the distribution of costs and of taxes paid pending the appeal, shall be as provided in chapter 95." [L. 1935, c. 160, s. 10; am. L. 1943, c. 164, pt. of s. 1; R. L. 1945, s. 5381; am. L. 1945, c. 92, s. 3.]

Section 4. Section 5473 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5473. Appeal; correction of assessment. If any person having made the return and paid the tax for any month or any year as provided by this chapter feels aggrieved by the assessment so made upon him by the tax commissioner, he may appeal from said assessment in the manner and within the time and in all other respects as provided in section 5535. The hearing and disposition of such appeal, including the distribution of costs and of taxes paid pending the appeal, shall be as provided in chapter 95." [L. 1935, c. 141, s. 1; am. L. 1937, c. 202, s. 1; R. L. 1945, s. 5473; am. L. 1945, c. 92, s. 4.]

Section 5. Section 5535 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5535. Appeal. Unless otherwise barred by the provisions of this chapter from so doing, any taxpayer who has made an income tax return as aforesaid, or against whom has been made an additional assessment under section 5530, paragraph (2), or an assessment under section 5528, may appeal from the assessment within the time hereinafter set forth, either to the divisional board of review or to the tax appeal court, in the manner and with the costs provided by chapter 95, except as otherwise in this chapter provided.

If the appeal is first made to the board, the appeal shall either be heard by the board or be transferred to the tax appeal court for hearing at the election of the taxpayer, and if heard by the board an appeal shall lie from the decision thereof to the tax appeal court and to the supreme court in the manner and with the costs provided by chapter 95. The supreme court shall prescribe forms to be used in such appeals which shall be as nearly identical as practicable with the forms prescribed or permitted by law in the case of property tax appeals; **provided**, that such forms shall show the amount of taxes upon the basis of the taxpayer's computation of taxable income, the amount of taxes upon the basis of the assessor's computation, the amount of taxes upon the basis of the decisions of the board of review and tax appeal court, if any, and the amount of taxes in dispute. If or when the appeal is filed with or transferred to the tax appeal court, the court shall proceed to hear and determine the appeal, subject to appeal to the supreme court as is provided in chapter 95.

Any taxpayer appealing from any assessment of income taxes shall lodge with the assessor or assistant assessor a notice of the appeal in writing, stating the ground of his objection to the additional assessment or any part thereof, which notice of appeal shall be filed at any time within twenty days subsequent to the date when the notice was mailed properly addressed to the taxpayer at his last known residence or place of business. No taxpayer shall be exempt from delinquent penalties by reason of having made an appeal on his assessment, but the tax paid, covered by an appeal duly taken, shall be held in a special deposit and distributed as provided in section 5219, for which purpose the word 'valuation' shall be deemed to refer to the amount of income." [L. 1932, 2d, c. 44, s. 15; R. L. 1935, s. 2045; R. L. 1945, s. 5535; am. L. 1945, c. 92, s. 5.]

Section 6. Section 5613 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5613. Appeals. Any person aggrieved by any assessment of the tax imposed by this chapter may appeal from said assessment in the manner and within the time and in all other respects as provided in the case of income tax appeals by section 5535, provided the tax so assessed shall have been paid. The hearing and disposition of such appeal, including the distribution of costs and of taxes paid pending the appeal, shall be as provided in chapter 95." [L. 1939, c. 222, s. 14; R. L. 1945, s. 5613; am. L. 1945, c. 92, s. 6.]

Section 7. Section 5760 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5760. Appeals. Any person aggrieved by any assessment of the tax imposed by this chapter may appeal from said assessment in the manner and within the time and in all other respects as provided in the case of income tax appeals by section 5535, provided the tax so assessed shall have been paid. The hearing and disposition of such appeal, including the distribution of costs and of taxes paid pending the appeal, shall be as provided in chapter 95." [L. 1939, c. 220, s. 12; R. L. 1945, s. 5760; am. L. 1945, c. 92, s. 7.]

Section 8. This Act shall take effect upon its approval, and shall apply to all appeals hereafter taken.

(Approved May 7, 1945.) S.B. 116, Act 92.

Chapter 96. COUNTY BUDGETS, ETC.

[Sec. 5252, amended by Act 82, A-87, ante; and by Act 8, E-220, post.]

[Sec. 5254, amended by Act 82, A-87, p. 153; and by Act 8, E-220, post.]

Series A-100: ACT 31

An Act Directing the Board of Supervisors of the County of Hawaii to Appropriate \$15,000.00 from Item 2 of Section 5257 of the Revised Laws of Hawaii 1945 for Certain Road Purposes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Hawaii is hereby directed to appropriate and expend the sum of fifteen thousand dollars (\$15,000.00) from the special fund provided for by item 2 of section 5257 of the Revised Laws of Hawaii 1945, for the widening of two concrete bridges, the approaches thereto, and the road between said bridges, in Niulii Gulch, North Kohala, Hawaii.

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1945.) H.B. 349, Act 31.

[Sec. 5260, amended by Act 82, A-87, ante; and by Act 8, E-220, post. See also Act 182, A-85, ante.]

Chapter 98. COMPENSATION-DIVIDENDS TAX.

Series A-101: ACT 121

An Act to Amend Section 5343 of the Revised Laws of Hawaii 1945, Relating to the Compensation and Dividends Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5343 of the Revised Laws of Hawaii 1945 is hereby amended by amending the second paragraph thereof to read as follows:

“‘Dividends’ means any distribution, whether in money or other property, made by a local or foreign company (except a national bank and except interest or dividends paid or credited by building and loan associations or savings and loan associations on or apportioned to withdrawable shares and investment certificates, but in no event exceeding six per centum per annum) to its shareholders or holders of an interest therein on account of ownership of such shares or interests, out of its earnings or profits, except liquidating dividends paid out of earnings or profits accumulated, or increase in value of property accrued, before January 1, 1943. Every distribution shall be deemed to have been made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. For the purposes of this paragraph a liquidating dividend shall be deemed to mean a distribution made as part of a plan to cease doing business and to wind up the affairs of the company.”

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) H.B. 572, Act 121.

Note: As so amended, § 5343 reads:

“Sec. 5343. Same; ‘dividends,’ ‘local company,’ ‘foreign company.’ Wherever used in this chapter, unless the subject matter, context or sense otherwise require:

‘Dividends’ means any distribution, whether in money or other property, made by a local or foreign company (except a national bank and except interest or dividends paid or credited by building and loan associations or savings and loan associations on or apportioned to withdrawable shares and investment certificates, but in no event exceeding six per centum per annum) to its shareholders or holders of an interest therein on account of ownership of such shares or interest, out of its earnings or profits, except liquidating dividends paid out of earnings or profits accumulated, or increase in value of property accrued, before January 1, 1943. Every distribution shall be deemed to have been made out of earnings or profits

to the extent thereof, and from the most recently accumulated earnings or profits. For the purposes of this paragraph a liquidating dividend shall be deemed to mean a distribution made as part of a plan to cease doing business and to wind up the affairs of the company.

'Local company' shall mean and include every corporation, national banking association, insurance company, association or joint stock company organized in or under the laws of the Territory.

'Foreign company' shall mean and include every corporation, national banking association, insurance company, association or joint stock company organized in or under the laws of any jurisdiction other than the Territory. [L. 1933, s. 209, pt. of s. 1; R. L. 1935, Chap. IV, Appendix, pt. of s. 1; am. L. 1939, c. 252, pt. of s. 3; am. L. 1941, c. 213, pt. of s. 1; am. L. 1943, c. 100, pt. of s. 2; R. L. 1945, s. 5343; am. L. 1945, c. 121, s. 1.]

Series A-102: ACT 208

An Act Relating to the Disposition of
Proceeds from the Compensation and Dividends Tax;
Amending Section 5358 of the Revised Laws of Hawaii
1945.

AM. '49
Sr. A-138A35
A-147A205

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5358 of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end of subsection (a) thereof the following sentence:

"If the tax commissioner, with the approval of the governor, shall find and determine that, by reason of an Act of the Congress of the United States, taxes imposed by this chapter upon the compensation of employees of the United States or agencies or instrumentalities thereof (hereinafter called 'federal employees'), or upon the compensation of some of such employees, cannot be collected, or cannot be collected promptly, unless provision is made for the refunding thereof as herein provided, but could be collected, or could be collected earlier than otherwise would be the case, if such provision for refunding were made, the tax commissioner, by a rule adopted under section 5354 with the approval of the governor, may provide for the refunding, out of current collections of the tax imposed by this chapter, of the tax collected from such federal employees, with respect to such amounts of compensation, or such earning or payroll periods, and subject to such conditions (including, in his discretion, the filing of applications therefor within a period to be fixed by him and the

showing of payment of tax upon the same compensation to the state of domicile, or other domiciliary jurisdiction) as in the judgment of the tax commissioner, with the approval of the governor, will conform to said Act of Congress and will increase the collectibility of the taxes imposed by this chapter with respect to federal employees."

Section 2. This Act shall apply only with respect to compensation received after December 31, 1944. Subject to the foregoing this Act shall take effect upon its approval.

(Approved May 17, 1945.) H.B. 257, Act 208.

Note: As so amended, § 5358 reads:

"Sec. 5358. Disposition of proceeds; refunds; public welfare fund.

(a) If it shall be shown, upon application of an employee or shareholder, that there has been withheld from his compensation or dividends any tax not due thereon or more than the amount of tax due thereon, the amount found to have been overpaid or otherwise not due shall be refunded out of current collections of the tax; provided the commissioner shall be satisfied: (1) that the amount so overpaid or otherwise not due has been paid to the Territory; (2) that the amount of refund claimed has not been used as a credit against net income tax; and (3) that application for such refund was filed within six months after the end of the calendar year in which the amount to be refunded was withheld. If the tax commissioner, with the approval of the governor, shall find and determine that, by reason of an Act of Congress of the United States, taxes imposed by this chapter upon the compensation of employees of the United States or agencies or instrumentalities thereof (hereinafter called 'federal employees'), or upon the compensation of some of such employees, cannot be collected, or cannot be collected promptly, unless provision is made for the refunding thereof as herein provided, but could be collected, or could be collected earlier than otherwise would be the case, if such provision for refunding were made, the tax commissioner, by a rule adopted under section 5354 with the approval of the governor, may provide for the refunding, out of current collections of the tax imposed by this chapter, of the tax collected from such federal employees, with respect to such amounts of compensation, or such earning or payroll periods, and subject to such conditions (including, in his discretion, the filing of applications therefor within a period to be fixed by him and the showing of payment of tax upon the same compensation to the state of domicile, or other domiciliary jurisdiction) as in the judgment of the tax commissioner, with the approval of the governor, will conform to said Act of Congress and will increase the collectibility of the taxes imposed by this chapter with respect to federal employees.

(b) The net tax collections remaining after the refunds authorized by law shall be divided between the general fund of the Territory and the public welfare fund hereby created, as follows: There shall be paid into the public welfare fund such amount of tax as represents tax collections of five-tenths of one per cent of the tax base, or six-tenths of one per cent of the tax base, as the case may be, dependent upon the rate determined to be required for public welfare purposes, as provided by law. The balance of such tax collections shall be paid into the general fund of the Territory.

[L. 1933, c. 209, s. 17; R. L. 1935, Chap. IV, Appendix, s. 17; am. L. 1935, c. 135, pt. of s. 1; am. L. 1941, c. 213, pt. of s. 1; am. L. 1943, c. 100, s. 2 (i); R. L. 1945, s. 5358; am. L. 1945, c. 208, s. 1.]”

[Public welfare fund, amount to be paid into said fund, expenditures, R. L. 1945, ss. 4811, 4812.]

Chapter 99. CONSUMPTION TAX.

Chapter 101. GENERAL EXCISE.

Series A-103: ACT 100

An Act to Amend Chapters 99 and 101 of the Revised Laws of Hawaii 1945, Relating to the Rates of the Consumption Tax and General Excise Tax, by Amending Sections 5374, 5455, and 5467, and by Repealing Section 5454.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5374 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

“Sec. 5374. **Rate of tax.** The rate of the tax hereby imposed shall be one and one-half per cent.” [L. 1935, c. 160, s. 3; R. L. 1945, s. 5374; am. L. 1945, c. 100, s. 1.]

[Sec. 5381, amended by Act 92, A-99, ante.]

[Sec. 5383, amended by Act 253, A-104, post.]

[Sec. 5444.01, added by Act 243, A-93, ante.]

Section 2. Section 5454 of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 3. Section 5455 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By amending subsection A thereof by deleting from the twelfth and thirteenth lines thereof, wherever the same appear, the words “one and one-quarter per cent”, and by inserting in lieu of the words deleted, wherever the same formerly appeared, the following:

“one and one-half per cent”.

2. By amending subsection B thereof by deleting from the fifth line thereof the words “one and one-quarter per cent” and by inserting in lieu thereof the following:

“one and one-half per cent”.

3. By amending subsection C thereof by deleting from the third line thereof the words "one and one-quarter per cent" and by inserting in lieu thereof the following:

"one and one-half per cent".

4. By amending subsection D thereof by deleting from the sixth line thereof the words "one and one-quarter per cent" and by inserting in lieu thereof the following:

"one and one-half per cent".

[See paragraph C and D, restated in connection with Act 253, A-104 immediately following.]

5. By amending subsection E thereof by deleting from the fourth line the words "one and one-quarter per cent" and by inserting in lieu thereof the following:

"one and one-half per cent".

6. By amending subsection F thereof by deleting from the fourth line the words "one and one-quarter per cent" and by inserting in lieu thereof the following:

"one and one-half per cent".

7. By amending subsection G thereof by deleting from the fifth line the words "one and one-quarter per cent" and by inserting in lieu thereof the following:

"one and one-half per cent".

[Sec. 5455 also amended by Act 253, A-104, post.]

[Sec. 5459, amended by Act 253, A-104, and Act 158, A-105, post.]

[Sec. 5460, amended by Act 253, A-104, post.]

[Sec. 5461, amended by Act 253, A-104, post.]

[Secs. 5463-65, amended by Act 253, A-104, post.]

Section 4. Section 5467 of the Revised Laws of Hawaii 1945 is hereby amended by deleting from the last sentence thereof the words "one and one-quarter per cent rate", which appear in the thirteenth line from the top of page 653 of the Revised Laws of Hawaii 1945, and by inserting in lieu of the words deleted the following:

"one and one-half per cent rate".

[Sec. 5467 completely re-written (?) by Act 253, A-104, post.]

Section 5. This Act shall take effect on January 1, 1946 and shall apply to taxes accruing on and after said date.

(Approved May 8, 1945.) S.B. 114, Act 100.

Series A-104: ACT 253

AM. '49
Sr. A...

An Act to Amend Chapters 99 and 101 of the Revised Laws of Hawaii 1945, Relating to Consumption and General Excise Taxes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5383 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5383. **Penalty.** A penalty of ten per centum shall be added to and become a part of any tax or portion thereof becoming delinquent, and in addition thereto said tax as so increased shall bear interest at the rate of two-thirds of one per centum for each month or fraction thereof from the expiration of fifteen days from the date of delinquency until paid, which interest shall be added to and become a part of such tax." [L. 1935, c. 160, s. 2; R. L. 1945, s. 5383; am. L. 1945, c. 253, s. 1.]

Section 2. Section 5455 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(1) By amending subsection C, by amending paragraph (2) thereof to read as follows:

"(2) **Provided**, however, that in computing the tax levied under this subsection C, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under subsection C (1) on another taxpayer, if the tax on the amount so deducted has been paid by such other person, or has been withheld by the taxpayer and shall be paid over by him to the assessor at the time of filing the return, such withholding being hereby authorized; but any person claiming a deduction under this paragraph shall be required to show in his return the name of the person paying the tax on the amount deducted by him or from whom such tax was withheld, and shall issue a receipt for any amount of tax withheld, which upon filing by such other taxpayer with his return, shall relieve such other taxpayer of liability for the amount of tax withheld."

(2) By amending subsection D by deleting the figure "(1)" in the first line thereof and by deleting all of paragraph (2) thereof.

Note: As so amended, paragraphs C and D of § 5455, read:

"**C. Tax upon contractors.** (1) Upon every person engaging or continuing within this Territory in the business of contracting, the tax shall be equal to one and one-half per cent of the gross income of the business. **Provided**, however, that the rate of tax levied upon any such person measured by gross income received on account of uncompleted contracts, entered into prior to the effective date of this chapter shall be eight-tenths

of one per cent. All contracts shall be prima facie presumed to have been entered into subsequent to the effective date of this chapter.

(2) **Provided**, however, that in computing the tax levied under this subsection C, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under subsection C (1) on another taxpayer, if the tax on the amount so deducted has been paid by such other person, or has been withheld by the taxpayer and shall be paid over by him to the assessor at the time of filing the return, such withholding being hereby authorized; but any person claiming a deduction under this paragraph shall be required to show in his return the name of the person paying the tax on the amount deducted by him or from whom such tax was withheld, and shall issue a receipt for any amount of tax withheld, which upon filing by such other taxpayer with his return, shall relieve such other taxpayer of liability for the amount of tax withheld.

(3) **Provided**, further, that in computing the tax levied under this subsection C against any federal cost-plus contractor, there shall be excluded from the gross income of the contractor so much thereof as fulfills the following requirements:

(a) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sale of such taxpayer on account of the transaction.

(b) The taxpayer making the sale shall have certified to the commissioner that he is taxable with respect to the gross proceeds of the sale, and that he elects to have the tax on such gross income computed as if the sale were made to the federal government direct.

D. Tax upon theaters, amusements, radio broadcasting stations, etc. Upon every person engaging or continuing within this Territory in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station or any other place at which amusements are offered to the public, the tax shall be equal to one and one-half per cent of the gross income of the business."

[Sec. 5455, also amended by Act 100, A-103, ante, by changing former rate of "one and one-quarter per cent" to "one and one-half per cent" in paragraphs A, B, C, D, E, F, and G.]

Section 3. Section 5459 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(1) By deleting therefrom the proviso which follows clause (1) at the end of the second paragraph thereof.

(2) By amending the third paragraph thereof (lines 29 to 39, inclusive, of said section) to read as follows:

"Provided, however, that the exemptions enumerated in this section from (f) to (i) both inclusive shall apply only:

(1) to those persons who shall have registered with the tax commissioner on or before January 31 of each calendar year, or within one month after the commencement of

business, by filing a written application for registration in such form as the commissioner shall prescribe, and shall have paid for such registration an annual fee of one dollar, and shall have had the exemption allowed by the commissioner or by a court or tribunal of competent jurisdiction upon appeal from any assessment resulting from disallowance of the exemption by the commissioner; and

(2) to activities from which no profit inures to the benefit of any private stockholder or individual, except for death or other benefits to the members of fraternal societies; and

(3) to the fraternal, religious, charitable, scientific, educational, communal or social welfare activities of such persons, or to the activities of such hospitals, infirmaries and sanatoria as such, and not to any activity the primary purpose of which is to produce income even though such income is to be used for or in furtherance of the exempt activities of such persons."

[Sec. 5459, also amended by Act 158, A-105, post.]

Note: As so amended by Act 253, A-104 and Act 158, A-105, § 5459 reads:

"Sec. 5459. Exemptions, persons exempt*, applications for exemption. The provisions of this chapter shall not apply to the following persons:

(a) National banks; (b) banks on whose shares of stock or net worth a tax is levied under the provisions of chapter 97; (c) public utilities (as that term is defined in section 4701), with respect to their public utilities business, upon the gross income from which they pay an annual tax under the provisions of chapter 106; (d) public utilities owned and operated by the Territory or any county or other political subdivisions thereof; (e) insurance companies which pay the Territory a tax upon their gross premiums under the provisions of chapter 161; (f) fraternal benefit societies, orders or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident or other benefits to the members of such societies, orders or associations, and to their dependents; (g) corporations, associations or societies organized and operated exclusively for religious, charitable, scientific or educational purposes; (h) business leagues, chambers of commerce, boards of trade, civic leagues and organizations operated exclusively for the benefit of the community and for the promotion of social welfare, and from which no profit inures to the benefit of any private stockholder or individual; (i) hospitals, infirmaries and sanatoria (sic); (j) cooperative associations now or hereafter incorporated under and pursuant to the provisions of chapter 154, provided, however, that the exemption herein provided shall apply only to the gross income derived from its non-profit activities; (k) building and loan associations, with respect only to interest received by them on loans to members; (l) lepers and kokuas, with respect to business within the county of Kalawao; (m) corporations, companies, associations or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or in-

dividual, **provided**, however, that the exemption herein provided for shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income even though such income is to be used for or in the furtherance of the exempt activities of such persons.

Provided, however, that the exemptions enumerated in this section from (f) to (i) both inclusive shall apply only:

(1) to those persons who shall have registered with the tax commissioner on or before January 31 of each calendar year, or within one month after the commencement of business, by filing a written application for registration in such form as the commissioner shall prescribe, and shall have paid for such registration an annual fee of one dollar, and shall have had the exemption allowed by the commissioner or by a court or tribunal of competent jurisdiction upon appeal from any assessment resulting from disallowance of the exemption by the commissioner; and

(2) to activities from which no profit inures to the benefit of any private stockholder or individual, except for death or other benefits to the members of fraternal societies; and

(3) to the fraternal, religious, charitable, scientific, educational, communal or social welfare activities of such persons, or to the activities of such hospitals, infirmaries and sanatoria as such, and not to any activity the primary purpose of which is to produce income even though such income is to be used for or in furtherance of the exempt activities of such persons.

In order to obtain allowance of an exemption an application for exemption shall be filed in the form of an affidavit or affidavits setting forth in general all facts affecting the right to the exemption and such particular facts as the commissioner may require, to which shall be attached such records, papers and other information as the commissioner may prescribe. Such application for exemption shall be filed on or before March 31 of the first year of registration or within three months after the commencement of business. In the event of allowance of the exemption no further application therefor need be filed unless there be a material change in the facts, but such person nevertheless shall register annually. In the event of disallowance of the exemption a license may be obtained without payment of a further fee, and in the event the registrant has a license under this chapter no further fee shall be required for registration under this section.

The commissioner for good cause may extend the time for registration or the time for filing an application for exemption, but such extension or extensions shall not aggregate more than a total of two months. [L. 1935, c. 141, s. 4 (1); am. L. 1941, c. 265, s. 2; R. L. 1945, s. 5459; am. L. 1945, c. 158, s. 1 and c. 253, s. 3.]

*[See also exemptions in section 5460, R. L. 1945.]

[Medical associations, see R. L. 1945, s. 8580. Disallowance of exemption, s. 5467.]

Section 4. Section 5460 of the Revised Laws of Hawaii 1945 is hereby amended by changing the period at the end thereof to a semicolon, and by adding thereto two new paragraphs to read as follows:

"(k) the amounts of taxes on tobacco products imposed by chapter 109, where charged separately from the sales price and collected from the purchasers thereof;

(1) the amounts of federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer."

Section 5. Section 5461 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5461. Monthly return, computation of tax, payment. The taxes levied hereunder shall be payable in monthly installments on or before the expiration of twenty days from the end of the month in which they accrue. The taxpayer shall, within twenty days from the expiration of each month, make out and sign an estimate of the tax for which he is liable for such month and transmit the same, together with a remittance, in the form required by section 5462, for the amount of the tax, to the office of the appropriate territorial divisional tax assessor hereinafter designated.

The commissioner for good cause may extend the time for making any return required under this section, and may grant such reasonable additional time within which to make such return as he may deem proper, but the time for filing such return shall not be extended beyond the twentieth day of the second month next succeeding the regular due date of such return; **provided**, that the commissioner, if satisfied that the taxpayer's total tax liability under this chapter will not exceed fifty dollars for the calendar year, may permit such taxpayer to file semi-annual returns, on or before the expiration of twenty days from the end of each six months period in which such taxes accrue." [L. 1935, c. 141, s. 5; am. L. 1941, c. 265, s. 3; R. L. 1945, s. 5461; am. L. 1945, c. 253, s. 5.]

Section 6. Section 5463 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5463. Penalty for delinquency. A penalty of ten per centum shall be added to and become a part of any tax or portion thereof becoming delinquent, and in addition thereto said tax as so increased shall bear interest at the rate of two-thirds of one per centum for each month or fraction thereof from the expiration of fifteen days from the date of delinquency until paid, which interest shall be added to and become a part of such tax." [L. 1935, c. 141, pt. of s. 13; am. L. 1941, c. 265, s. 8; R. L. 1945, s. 5463; am. L. 1945, c. 253, s. 6.]

Section 7. Section 5464 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the last paragraph thereof.

Section 8. Section 5465 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5465. Filing of returns; inspection. All monthly and annual returns shall be transmitted respectively to the office of the territorial divisional tax assessor of the taxation division in which the privilege upon which the tax accrued is exercised; **provided**, however, that where such privilege is exercised in more than one taxation division the said returns shall be transmitted to the office of the assessor of the first taxation division.

Monthly and annual returns shall be available for inspection by officers of the Territory or of any county, or in the case of a return made by a corporation by the officers and stockholders thereof, and not otherwise; **provided**, that the commissioner may permit the inspection of any return by any other person upon being satisfied that the inspection is desired for some lawful and proper purpose.

The commissioner is hereby authorized to destroy the monthly returns filed pursuant to section 5461, or any of them, upon the expiration of three years after the end of the calendar year in which the taxes so returned accrued." [L. 1935, c. 141, s. 6 (2); R. L. 1945, s. 5465; am. L. 1945, c. 253, s. 8.]

Section 9. Section 5467 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5467. Erroneous returns, disallowance of exemption, payment. If any return made is erroneous, or is so deficient as not to disclose the full tax liability, or if the taxpayer, in his return, shall disclaim liability for the tax on any gross income or gross proceeds of sales liable to the tax, or if the taxpayer shall make application under section 5459 for an exemption to which he is not entitled, the tax commissioner shall correct such error or assess the proper amount of taxes. If such recomputation results in an additional tax liability, or if the commissioner proposes to assess any gross income or gross proceeds of sales by reason of the disallowance of an exemption claimed in the return or for which application has been filed, the commissioner shall first give notice to the taxpayer of the proposed assessment, and the taxpayer shall thereupon have an opportunity within thirty days to confer with the commissioner. After the expiration of thirty days from such notification the commissioner shall assess the gross income or gross proceeds of sales of the taxpayer or any portion thereof which he believes has not theretofore been assessed, and shall give notice to the taxpayer of the amount of the tax, and the amount thereof shall be due and payable on the twenty-first day after the date the notice was mailed, properly addressed to the taxpayer at his last known address or place of business. **Provided**, that no

preliminary notice shall be necessary where the amount of the tax is calculated by the commissioner from gross income returned by the taxpayer as subject to the tax (unless the taxpayer shall have claimed that the one-quarter of one per cent rate is applicable and the commissioner shall have applied the one and one-quarter per cent rate); in such case the tax shall be due and payable on the tenth day after the date the statement was mailed. **Provided**, further, that in a case of disallowance of an exemption for which application was made under section 5459 the commissioner, before making an assessment, may require such applicant, by demand made upon him by mail or delivery thereof to the address shown in the application, to file information returns as to his gross income or gross proceeds of sales, within such reasonable time as the commissioner may allow, and in the event of failure, neglect or refusal to comply with such demand, the commissioner shall make an assessment under section 5469, in lieu of this section." [L. 1935, c. 141, s. 7 (1); am. L. 1941, c. 265, s. 5; R. L. 1945, s. 5467; am. L. 1945, c. 253, s. 9.]

[See Act 100, A-103, superseded as to § 5467 by the above?]

Section 10. Section 5472 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5472. Records to be kept; examination; penalties. It shall be duty of every taxpayer to keep in the English language within the Territory, and preserve for a period of five years, suitable records of gross proceeds of sales and gross income, and such other books, records of account and invoices as may be required by the commissioner, and all such books, records and invoices shall be open for examination at any time by the commissioner, or his duly authorized deputy, or by the divisional assessor or his deputy in whose office the return, returns and reports of the taxpayer are, or should be, filed under the provisions of this chapter. Any person violating the provisions of this section shall be guilty of a misdemeanor; and any director, president, secretary or treasurer of a corporation who permits, aids or abets such corporation to violate the provisions of this section shall likewise be guilty of a misdemeanor; the penalty for such misdemeanor shall be that prescribed by section 5481 for individuals, corporations or officers of corporations, as the case may be, for violation of said section." [L. 1935, c. 141, s. 22; am. L. 1937, c. 202, s. 2; am. L. 1943, c. 140, s. 1; R. L. 1945, s. 5472; am. L. 1945, c. 253, s. 10.]

Section 11. The penalty for delinquency in the payment of any tax imposed by chapter 101 which is delinquent on the date of approval of this Act and continues delinquent for the period of fifteen days and until the first day of the next calendar

month thereafter, shall be recomputed in accordance with the amendments made by this Act. The interest on any tax imposed by chapters 99 or 101 which is delinquent on the date of approval of this Act and continues delinquent for the period of fifteen days and until the first day of the next calendar month thereafter, shall be computed from and after said date in accordance with the amendments made by this Act, and prior thereto shall be computed in accordance with the law as it stood prior to the amendments made by this Act, for which purpose the date when said new interest rate takes effect shall be given the same effect as if it were the date of payment by the taxpayer.

Section 12. Subject to the provisions of section 11 sections 1 and 6 shall take effect upon the approval of this Act. The remainder of this Act shall take effect on the first day of the calendar month following the date of its approval.

(Approved May 21, 1945.) S.B. 115, Act 253.

Series A-105: ACT 158

An Act to Amend Chapter 101 of the Revised Laws of Hawaii 1945, Relating to the General Excise Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5459 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By amending the second paragraph of said section, which second paragraph commences with the third line of said section, by inserting after the semicolon in the twenty-third line of said second paragraph, the following:

"(m) corporations, companies, associations or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual, **provided**, however, that the exemption herein provided for shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income even though such income is to be used for or in the furtherance of the exempt activities of such persons;"

Section 2. In case Senate Bill No. 115 of the Regular Session of 1945 shall not become law the exemption provided for by this Act shall apply only to those persons who shall have complied with the provisions of the third and fourth and fifth paragraphs

of Section 5459 of the Revised Laws of Hawaii 1945, as said paragraphs were enacted by Section 2 (b) of Chapter 265 of the Regular Session Laws of 1941. In case Senate Bill No. 115 of the Regular Session of 1945 shall become law the exemption provided for by this Act shall apply only to those persons who shall have complied with the requirements set forth in proviso (1) of the third paragraph of Section 5459 of the Revised Laws of Hawaii 1945, as said third paragraph is amended by said Senate Bill No. 115, and with the provisions of the fourth and fifth paragraphs of said Section 5459, as said paragraphs were enacted by Section 2 (b) of Chapter 265 of the Regular Session Laws of 1941*.

Section 3. This Act shall take effect upon its approval.

(Approved May 14, 1945.) H.B. 704, Act 158.

*[Senate Bill No. 115 is Act 253, A-104, ante.]

[Sec. 5473, amended by Act 92, A-99, ante.]

[Sec. 5474, amended by Act 220, A-98, ante.]

Chapter 102. INCOME TAX.

Series A-106: ACT 124

An Act to Amend Chapter 102 of the Revised
Laws of Hawaii 1945, Relating to the Income Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5502 of the Revised Laws of Hawaii 1945 is hereby amended by inserting in front of the word "shall", in the last line of said section, the following:

"and including all corporations, companies, associations or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private shareholder or individual,".

Section 2. This Act shall be deemed to be and construed as a declaration and clarification of heretofore existing law.

Section 3. This Act shall take effect upon its approval.

(Approved May 8, 1945.) H.B. 705, Act 124.

Note: As so amended, § 5502 reads:

"Sec. 5502. Tax on corporations; exceptions. There shall be assessed, levied, collected and paid for each taxable year a tax of seven and one-half per centum upon the net income of every corporation doing business in

or receiving or deriving income from sources within the Territory, or income included in gross income by sections 5505-5507; provided, however, that all banks and insurance companies exclusively taxable under the provisions of other laws, and also all corporations, companies, associations or trusts conducted solely for charitable, religious, educational or scientific purposes, including fraternal beneficiary societies, and including all corporations, companies, associations or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private shareholder or individual, shall not be taxable under this chapter. [L. 1932, 2d, c. 44, s. 1; R. L. 1935, s. 2031; am. L. 1939, c. 213, s. 5; R. L. 1945, s. 5502; am. L. 1945, c. 124, s. 1.]”

[Medical associations, exemption of, R. L. 1945, s. 8580.]

[Sec. 5535, amended by Act 92, A-99, ante.]

Chapter 103. INHERITANCE-ESTATE TAXES.

Series A-107: ACT 262

An Act Amending Chapter 103 of the Revised Laws of Hawaii 1945, Relating to Inheritance and Estate Taxes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 103 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(1) By amending section 5553 to read as follows:

“Sec. 5553. **Same, joint holdings.** Whenever property, real or personal, including joint deposits in banks or other institutions or depositories, is held in joint tenancy by two or more persons, upon the death of one of such persons the right of the surviving joint tenant or joint tenants to the immediate acquisition, possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of this chapter in the same manner as though the whole property to which such transfer relates had belonged absolutely to the deceased joint tenant and had been devised or bequeathed to the survivor or survivors by the deceased by will, excepting therefrom such part thereof as may be proved by the survivor or survivors (1) to have originally belonged to him or them and not the deceased, or (2) to be his or their proportionate share of a gift, devise, or bequest to the joint tenants made by some third person. When the surviving joint tenant, or one of the surviving joint tenants, was the spouse of the decedent at the time of his death, only one half of the property so deemed transferred to said surviving spouse after the application of the foregoing ex-

ceptions shall, for the purposes of this section, be subject to tax. This section shall apply to tenancies by the entirety as well as to joint tenancies." [L. 1933-4, c. 11, s. 1; R. L. 1945, s. 5553; am. L. 1945, c. 262, s. 1.]

(2) By amending section 5555 by deleting the last sentence of said section.

(3) By amending section 5556 by changing the period at the end thereof to a semi-colon and by adding thereto the following:

"provided, that this section shall not be deemed to apply in a case of a trust, the trustee of which has the power to augment the income payable to any beneficiary of the trust out of principal, if such power (1) is not exercisable by or subject to the control of such beneficiary either alone or in conjunction with any other person, and (2) is so limited that the values of the rights, interests, or estates of the several donees nevertheless are presently ascertainable."

Note: As so amended, § 5556 reads:

"Sec. 5556. Contingent interests, etc. When property passes as provided herein in trust or otherwise, and the rights, interest or estates of the donees are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, a tax shall be imposed upon such transfer at the highest rate which, on the happening of any of such contingencies or conditions, would be possible under the provisions of this chapter, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the property transferred; **provided**, that this section shall not be deemed to apply in a case of a trust, the trustee of which has the power to augment the income payable to any beneficiary of the trust out of principal, if such power (1) is not exercisable by or subject to the control of such beneficiary either alone or in conjunction with any other person, and (2) is so limited that the values of the rights, interests, or estates of the several donees nevertheless are presently ascertainable. [L. 1917, c. 223, s. 1; R. L. 1945, s. 5556; am. L. 1945, c. 262, s. 1 (3).]"

[Future and contingent interests, R. L. 1945, ss. 5569, 5575.]

(4) By amending sections 5562 and 5563 thereof to read as follows:

"Sec. 5562. Resident decedents; credits. Whenever the estate of any decedent who, at the time of death, was a resident of the Territory shall be subject to an estate tax under the federal estate tax law, the tax imposed by sections 5552-5556 shall be increased by the imposition of an additional tax, which shall be calculated as follows:

(1) Where no constitutionally valid estate, inheritance, legacy or succession taxes are payable to any state or to any other territory or to the District of Columbia in respect of property included in the gross estate, by deducting the tax

imposed by said sections from the credit of eighty per centum allowed by the federal estate tax law.

(2) Where constitutionally valid estate, inheritance, legacy or succession taxes are actually paid to any state or to any other territory or to the District of Columbia in respect of property included in the gross estate, by adding such taxes to the tax imposed by said sections and deducting the total from the credit of eighty per centum allowed by the federal estate tax law; **provided**, that the deduction for such taxes actually paid to any state or other territory of the United States or the District of Columbia shall only be allowed if the payment thereof and claim for credit therefor is made within three years after the date of the decedent's death, except that the treasurer may, for good cause shown, extend the period for the payment of such taxes and the making of such claim.

For the purposes of this section and section 5563 the term 'gross estate' shall be deemed to refer to the gross estate subject to federal estate tax. [L. 1931, c. 211, pt. of s. 1; R. L. 1945, s. 5562; am. L. 1945, c. 262, pt. of s. 1 (4).]

Sec. 5563. Non-resident decedents. An additional tax is imposed upon or in respect of the transfer of so much of the net estate of every person who, at the time of death, was a non-resident of the Territory as consists of real property situated and tangible personal property having an actual situs in the Territory, the amount of such additional tax to be calculated as follows: Ascertain the portion of the credit of eighty per centum allowed by the federal estate tax law which is attributable to the real property situated and the tangible personal property having an actual situs in the Territory by multiplying the credit of eighty per centum by a fraction the denominator of which shall be the value, as determined for federal estate tax purposes, of the gross estate, and the numerator of which shall be the value, as determined for federal estate tax purposes, of the real property situated and the tangible personal property having an actual situs in the Territory. From such portion of the eighty per cent credit deduct the amount of the tax imposed by sections 5552-5556." [L. 1931, c. 211, pt. of s. 1; R. L. 1945, s. 5563; am. L. 1945, c. 262, pt. of s. 1 (4).]

(5) By amending section 5567 to read as follows:

"Sec. 5567. Payable when; penalty for non-payment. All taxes imposed by this chapter, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and if the same are paid within eighteen months, no interest shall be charged and collected thereon, but if not so paid interest at the rate of eight per centum per annum shall be charged

and collected from the date of death; provided, that if the tax is paid within twelve months from the date of death, a discount of five per centum shall be allowed and deducted from the tax, and in all cases where the executors, administrators or trustees do not pay such tax within eighteen months from the date of the death of the decedent, the treasurer may apply to the circuit judge having jurisdiction of the decedent's estate in the Territory for an order requiring the said executors, administrators or trustees to furnish a bond for the payment of same, and if after notice and hearing the circuit judge shall find that the said tax has not been paid, an order shall be entered requiring the executors, administrators or trustees to execute a bond to the Territory in the amount of the tax, the interest then due thereon and such further amount as the court shall find necessary to fully protect the Territory, with a corporate surety licensed in the Territory, conditioned for the payment of the tax and all interest which may eventually be due thereon. When it shall appear to the court that the tax is not then susceptible of exact calculation, the court shall estimate the amount of the tax for the purposes of this section." [L. 1905, c. 102, s. 5; am. L. 1909, c. 147, s. 2; am. L. 1911, c. 130, s. 1; R. L. 1945, s. 5567; am. L. 1945, c. 262, s. 1 (5).]

(6) By amending section 5568 by changing the words "ten per centum" wherever they appear therein to read "eight per centum", and by changing the words "seven per centum" appearing therein to read "five per centum".

(7) By amending section 5573 thereof to read as follows:

"Sec. 5573. Duties of safe deposit companies, trust companies, banks, corporations, partnerships, persons, etc. No safe deposit company, trust company, bank, corporation or other institution, partnership, or person, having possession or control of any property of a decedent, or property standing in the name of a decedent and one or more persons as joint tenants or tenants by the entirety, shall deliver, transfer or pay the same to the executors, administrators or legal representatives of the decedent, or to the surviving joint tenants or tenant by the entirety, or to any other person, or upon the order or request of any of the foregoing, without retaining a sufficient portion or amount thereof to pay any tax and the interest thereon which may thereafter be assessed or become due on account of the said property, unless the treasurer consents thereto in writing; provided, however, when the decedent was at the time of his death a resident of the Territory, and the delivery, transfer or payment is made to, or at the order of, the executor, administrator or other legal representative of the decedent, and does not

consist of the contents of a safe deposit box, or of property standing in the name of the decedent and one or more persons as joint tenants or tenants by the entirety, it shall not be necessary to so retain assets for the payment of taxes and interest, or to obtain the said consent of the treasurer, if the safe deposit company, trust company, bank, corporation or other institution, partnership, or person, immediately upon the delivery, transfer or payment, notifies the treasurer thereof in writing, stating the name of the decedent, the name of the executor, administrator, or other legal representative of the decedent, to whom, or at whose order, the delivery, transfer or payment was made, the date of same, and a description of the property. The word 'property' as used in this section shall mean property of every kind and nature, including shares of the capital stock of, or other interests in, or claims against, the safe deposit company, trust company, bank, corporation or other institution, partnership, or person, making the delivery, transfer or payment.

It shall be lawful for the treasurer, personally or by representative, to examine the property which is about to be or has been delivered, transferred or paid. Failure to allow such examination or failure to conform to the provisions of this section shall render the safe deposit company, trust company, bank, corporation or other institution, partnership, or person, liable to a payment of twice the amount of the tax and interest due or thereafter to become due upon the property delivered, transferred or paid in violation hereof, and the liability shall be enforced in an action brought in accordance with the provisions of section 5587. [L. 1905, c. 102, pt. of s. 11; R. L. 1945, s. 5573; am. L. 1945, c. 262, s. 1 (7).]

Section 2. This Act shall take effect as follows:

(1) Subsections (1) to (4) inclusive of section 1 of this Act shall take effect upon the approval of this Act as to decedents dying after said effective date, but sections 5553, 5555, 5556, 5562, and 5563 of the Revised Laws of Hawaii 1945 as such sections stood prior to the amendments made by subsections (1) to (4) inclusive of section 1 of this Act shall apply in cases of decedents dying on or prior to said effective date.

(2) Subsections (5) and (6) of section 1 of this Act shall take effect on the first day of the calendar month following the date of the approval of this Act and shall apply to all interest thereafter accruing irrespective of the date of death of the decedent, but shall not apply to interest already accrued.

(3) Subsection (7) of section 1 of this Act shall take effect on July 1, 1945.

(Approved May 22, 1945.) S.B. 360, Act 262.

Series A-108: ACT 37

An Act to Amend Sections 5574 and 9761 of the Revised Laws of Hawaii 1945, Relating to Fees of Appraisers and Commissioners.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The first paragraph of section 5574 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5574. Appraisers, penalty for taking award. When the value of any inheritance, devise, bequest, or other interest subject to the payment of the tax is uncertain, the circuit judge before whom the probate proceedings are pending, on the application of any interested party, or upon his own motion, may appoint some competent person or persons as appraisers, if such appointment shall seem to the circuit judge to be necessary, whose duty it shall be forthwith to give notice, by mail, to all persons known to have, or to claim an interest in such property, to the treasurer and to such person as the circuit judge may by order direct, of the time and place at which he will appraise such property, and at such time and place to appraise the same and make a report thereof, in writing, to the circuit judge, together with such other facts in relation thereto as the circuit judge may by order require to be filed with the clerk of the court. Every appraiser shall be paid on the certificate of the circuit judge at chambers a fee in such amount as the judge shall deem just and reasonable, together with his actual and necessary traveling expenses at the same rate paid to witnesses subpoenaed to attend courts of record. Such fees and all other charges herein provided for shall be paid out of the estate of the decedent as an expense of administration."

Note: The remainder of § 5574 reads:

"Any appraiser appointed by virtue of this chapter who shall take any fee or award from any executor, administrator, trustee, legatee, next of kin, or heir of any decedent, or from any other person liable to pay the tax, or any portion thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred and fifty dollars nor more than five hundred dollars or imprisoned for a period of ninety days, or both. [L. 1905, c. 102, pt. of s. 12, s. 13; am. L. 1909, c. 147, s. 3; R. L. 1925, pt. of s. 1412, s. 1413; R. L. 1935, pt. of s. 2074, s. 2075; am. L. 1941, c. 294, s. 1; am. L. 1943, c. 170, s. 4 (a); R. L. 1945, s. 5574; am. L. 1945, c. 37, s. 1.]"

Section 2. The first paragraph of section 9761 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 9761. Fees of commissioners and appraisers. Fees of commissioners and appraisers shall be such as the court or judge shall deem just and reasonable, together with actual and necessary traveling expenses at the same rate paid for traveling expenses to witnesses subpoenaed to attend courts of record, and all actual disbursements for surveying, plans, etc."

Note: The remainder of § 9761 reads:

"High sheriff's, or police officer's fees: Shall be such as the court or judge shall deem just and reasonable. [Part of R. L. 1935, s. 3793; am. L. 1941, c. 293, s. 1; R. L. 1945, s. 9761; am. L. 1945, c. 37, s. 2.]"

Section 3. This Act shall take effect upon its approval.

(Approved April 24, 1945.) **H.B. 52, Act 37.**

[Sec. 5613, amended by Act 92, A-99, ante.]

Chapter 105. PERSONAL PROPERTY TAX.

Series A-109: ACT 152

2 ap. S L. '47
1. A-814 111
An Act to Amend Chapter 105 of the Revised Laws of Hawaii 1945, Relating to Personal Property Taxes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5642 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5642. Examination of returns; reassessment notice; procedure; additional taxes. The commissioner, before the end of the calendar year following the year in which the returns are made, shall examine all returns of personal property and shall determine from such examination and from such other information and investigation as he shall deem proper to make, whether or not the personal property so returned has been properly and adequately valued or otherwise properly returned pursuant to the provisions of this chapter. If the commissioner determines from such examination or otherwise that the valuation, or any claim for exemptions or exclusions, made by the taxpayer, is erroneous or incorrect or that for any other reason a change should be made in the figures claimed by the

taxpayer in order to determine the proper amount of taxes payable under this chapter in respect of the personal property involved, he shall make such change in the assessment as he shall deem proper and reassess said personal property upon such basis, and shall thereupon give notice to the taxpayer of such changes and reassessment in the manner provided in section 5164 with respect to assessment of unreturned or omitted real property, and the taxpayer may appeal therefrom in the manner and upon the terms and conditions provided in said section. The additional amount so assessed shall be payable within thirty days after the date of mailing of such notice, or if assessed for the current assessment year, within thirty days after the date of mailing such notice or on or before the next installment payment date, if any, for personal property taxes for said year, whichever is later, and shall be delinquent thereafter. Except in the case of unreturned or omitted personal property, no such reassessment shall be valid unless the same shall have been made, and, in cases where notice thereof is required to be mailed, the notice thereof shall have been mailed, before the end of the year following the year in which the return was made." [L. 1935, c. 153, pt. of s. 11; R. L. 1945, s. 5642; am. L. 1945, c. 152, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 14, 1945.) **H.B. 289, Act 152.**

Chapter 106. PUBLIC UTILITIES TAX.

Series A-110: ACT 78

An Act to Amend Chapter 106 of the Revised Laws of Hawaii 1945, Relating to Public Utility Taxes, by Amending Section 5672 Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5672 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5672. Definitions; computation of net operating income. Whenever used in this chapter: 'public utility' shall have the meaning given that term in section 4701; 'gross income' shall have the meaning of that term as used in section 4726; 'net operating income' means the operating revenues less the operating expenses and tax accruals, including, in the computation

of such revenues and expenses, debits and credits arising from equipment rents and joint facility rents. In the event that, but for the provisions of this sentence, deductions could not be had for expense of services, because such services were rendered by the same person or persons constituting the public utility, or could not be had for income taxes, because such taxes were levied against the person or persons constituting the public utility in his or their individual capacity and not as a separate entity, there nevertheless shall be allowed as deductions in computing the net operating income (1) a reasonable allowance for the value of personal services actually rendered, and (2) such proportion of the actual amount of income taxes as fairly represents the portion of the income so taxed which was derived from the public utility business." [L. 1932, 2d, c. 43, s. 2; R. L. 1935, s. 2141; R. L. 1945, s. 5672; am. L. 1945, c. 78, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1945.) S.B. 110, Act 78.

Chapter 108. SPECIFIC TAXES-ROAD FUND.

Series A-111: ACT 83

*S.L. '47
3-128, 603/20.* An Act Relating to the Road Fund of the Counties and Expenditures Therefrom; Amending Sections 5713, 6007, 6526, and 6772 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5713 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5713. Road fund. All taxes collected under the provisions of this chapter shall be kept in a fund to be known as the 'road fund' and expended only for the construction, maintenance, improvement and repair of public roads and highways of the county in which the taxes are collected, including without restriction of the foregoing purposes, costs of new land therefor, of permanent storm drains under, along, or across highways, and of new bridges, as well as repairs or additions to storm drains or bridges; provided, however, that in the city and county of Honolulu the board of supervisors may appropriate from said revenues up to the sum of one hundred thousand dollars for the police department; provided further, that no expenditures shall be made out of the revenues paid

into the road fund under this section, which will jeopardize federal aid for highway construction." [R. L. 1945, s. 5713; am. L. 1945, c. 83, s. 1.]

Section 2. Section 6007 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6007. To road fund. All moneys received by any county from any public utility corporation under the provisions of the franchise granted to such corporation shall be kept in the road fund created by section 5713 and expended on the construction, maintenance, improvement and repair of public roads and highways of the county in which the same are received, including for the purposes of this section, the installation, maintenance and repair of street lights and power, and other charges for street lighting purposes as well as the replacement of old street lights, and footpaths or sidewalks; **provided,** further, that in the city and county of Honolulu the board of supervisors may provide for the maintenance of the Honolulu traffic safety commission, and for other purposes and functions connected with the prevention of automobile accidents and preservation of safety upon the highways and streets in the city and county of Honolulu, and for the establishment and maintenance, under the direction of the police department, of one or more vehicle testing stations, from said moneys." [R. L. 1945, s. 6007; am. L. 1945, c. 83, s. 2.]

Section 3. Section 6526 of the Revised Laws of Hawaii 1945, is hereby amended by deleting the last sentence thereof, which now appears in lines seven to nine inclusive of said section.

Note: As so amended, § 6526 reads:

"Sec 6526. Police department; appropriation. The board of supervisors, upon request of the police commission, shall appropriate from time to time, for the use of the police department, sums aggregating not less than \$962,710.00 per annum, plus the amounts necessary to meet all of the salary increases from and after December 31, 1941, provided for by sections 6550 and 6551. The board of supervisors may from time to time, in its discretion, appropriate additional moneys to be used by the police department. [L. 1939, c. 242, s. 4 (17); am. L. Sp. 1941, c. 27, s. 1; am. L. 1943, c. 144, s. 6; R. L. 1945, s. 6526; am. L. 1945, c. 83, s. 3.]"

[See R. L. 1945, ss. 5258, 5713, appropriations for police.]

Section 4. Section 6772 of the Revised Laws of Hawaii 1945 is hereby amended by changing the semi-colon in the fifth line thereof to a period, and by deleting the words: "**provided,** however, that in making the foregoing appropriation, the board of supervisors may use the road fund up to and not exceeding the sum of seventy-five thousand dollars".

[[**Sec. 6772,** completely re-written by Act 237, B-137, post.]

Section 5. Sections 1 and 2 of this Act shall take effect upon its approval. Sections 3 and 4 of this Act shall take effect as of January 1, 1945.

(Approved May 3, 1945.) S.B. 278, Act 83.

Chapter 109. TOBACCO TAX.

Series A-112: ACT 115

A. '49
A-158A.344
An Act to Amend Section 5753 of the Revised Laws of Hawaii 1945 Known as the Tobacco Tax Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5753 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 5753. Tax. Every wholesaler or dealer shall, in addition to any taxes provided by law, pay an excise tax, which is hereby imposed, equal to eight per centum of the wholesale price of each article or item of tobacco sold by him at wholesale, or if not at wholesale, then eight per centum of the whole-sale purchase price of each article or item of tobacco sold at retail; **provided**, that in the event the tax is upon the use of the tobacco products and not upon the sale thereof, the tax shall be six per centum of the retail price of each article or item of tobacco products so used; **provided further**, (1) that such tax shall not apply to any tobacco products exempted, and so long as the same are exempted, from the imposition of said tax by the Constitution or laws of the United States, and (2) that the tax shall be paid only once upon the same tobacco product." [L. 1939, c. 220, s. 4; R. L. 1945, s. 5753; am. L. 1945, c. 115, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) S.B. 202, Act 115.

[Sec. 5760, amended by Act 92, A-99, ante.]

Title 15. TREASURY.

Chapter 110. DEPARTMENT OF.

Series A-113: ACT 59

An Act Amending Chapter 110 of the Revised Laws of Hawaii 1945, Authorizing and Providing for the Investment of Territorial Moneys in Certain Securities of the United States and the Safekeeping in Mainland Depositories of Securities Owned or Held by the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 110 of the Revised Laws of Hawaii 1945 is hereby amended:

1. By adding a new section thereto to be numbered section 5802.01 and to read as follows:

"Sec. 5802.01. Short term investment of territorial moneys. The treasurer is authorized and empowered to invest, with the approval of the governor, any general, special or revolving fund moneys of the Territory which in the treasurer's judgment are in excess of the amounts necessary for meeting the immediate requirements of said respective funds, and where in his judgment such action will not impede or hamper the necessary financial operations of the Territory, in any security authorized by section 5927 for the investment of sinking fund moneys, provided the said security is due to mature not more than three years from the date of investment. Income derived therefrom shall be a realization of the sinking fund; expenses of purchase, safekeeping, sale and redemption, and any other expense attributable to such investments, shall be a proper charge upon the sinking fund; provided, that when the uses and purposes of the sinking fund shall have terminated with the redemption and cancellation of all the term and refunding bonds of the Territory, such income and expenses shall be a realization of and a charge upon the general fund, and all amounts necessary for said expenses are hereby deemed appropriated out of the general fund." [L. 1945, c. 59, s. 1.]

2. By amending section 5803 of said chapter by deleting the last sentence of said section, and by adding at the end of said section two new paragraphs reading as follows:

"The treasurer is also authorized and empowered to appoint, with the approval of the governor, such mainland depositories as may be necessary or expedient for the safekeeping of securities owned by the Territory, and may authorize and empower such depositories, for and on be-

half of the Territory, to pay for, receive delivery of, and receipt for, securities purchased by the Territory, to receive interest payments, to deliver and receive payment for securities sold or redeemed by the Territory, and to perform all other acts in connection with such securities which are customarily performed by depositories. Moneys received by such depositories on behalf of the Territory from the sale or redemption of securities, or as interest, shall not for a period of fifteen days after the receipt thereof by the depository be considered as deposits within the meaning of chapter 113, and moneys placed with the depositories for the purpose of purchase of securities shall not be considered as deposits within the meaning of chapter 113. The provisions of this paragraph may be applied with respect to any securities deposited in the treasurer's custody or control by any agency, government or private, with the approval of and at the expense of such agency, which expenditures, in the case of a government agency, may be made from any funds available for its current expenses. Funds of any such government agency awaiting investment, also funds received by such depository on behalf of such government agency from the sale or redemption of securities or as interest for a period of fifteen days after receipt thereof, shall be deemed held by the treasurer or in the treasury of the Territory within the meaning of any requirement of law, and any such moneys, though required to be held in the treasury, shall not, under the foregoing circumstances, be considered as deposits within the meaning of chapter 113.

All appointments made under this section may be revoked by the treasurer at any time." [R. L. 1945, s. 5803; am. L. 1945, c. 59, s. 1 (2).]

Section 2. This Act shall take effect upon its approval.

(Approved April 28, 1945.) **S.B. 190, Act 59.**

Note: The first part of § 5803, to which the foregoing amendment is added, reads:

"Sec. 5803. Fiscal agents. The treasurer is authorized and empowered to appoint, with the approval of the governor, such fiscal agents as may be necessary and expedient to facilitate the sale, purchase and redemption of the bonds of the Territory and the payment of interest thereon. The treasurer may authorize and empower such fiscal agents, for and on behalf of the Territory, to receive and receipt for moneys realized from the sale of such bonds and to pay out moneys for the redemption or purchase thereof and for the payment of interest thereon, and to receive receipts for all moneys so paid out. Moneys received by the fiscal agents from the sale of bonds on behalf of the Territory shall not, for a period of fifteen

days after the sale of bonds, be considered as deposits within the meaning of chapter 113, and moneys placed with the fiscal agents for the purpose of purchase or redemption of bonds and coupons shall not be considered as deposits within the meaning of chapter 113."

Series A-114: ACT 133

AM. 49

Sr.A....

An Act Authorizing Temporary Loans of
Excess Territorial General Fund Moneys to the Several
Counties and of Excess County Moneys to the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5812** of the Revised Laws of Hawaii 1945 is hereby amended by adding to the end thereof a new paragraph to read as follows:

"When there are moneys in the general fund of the Territory which in the treasurer's judgment are in excess of the amounts necessary for the immediate territorial requirements, the treasurer is authorized to make temporary loans therefrom to the several counties if in his judgment such action will not impede or hamper the necessary financial operations of the Territory. Such loans to any county shall not at any time exceed the amount of tax moneys which the treasurer estimates will be paid by him to the said county during the balance of the calendar year. The said loans shall be without interest, and shall be made only upon the request of the county treasurer approved by the county board of supervisors. They shall be repaid by the county upon the demand of the treasurer. In the absence of any demand, they shall be repaid by the county, during the calendar year in which they are granted, pursuant to the following procedure: from time to time as tax moneys which are payable to the borrowing county are deposited in the treasury, the treasurer shall retain therefrom sufficient to cover the amounts of all loans, and shall reimburse the general fund therewith." [L. 1907, c. 66, s. 1; R. L. 1925, s. 1252; R. L. 1935, s. 2211; R. L. 1945, s. 5812; am. L. 1945, c. 133, s. 1.]

Note: The first part of § 5812, to which the above amendment is added, reads:

"**Sec. 5812. Purchase of county bonds.** The treasurer, with the approval of the governor, is authorized to purchase bonds issued by the several counties in conformity with law, or to loan money to the counties on the security of such bonds out of any funds that may be available for such purposes, or to accept such bonds as payment for property sold to the counties, whenever they may deem it for the public interest so to do."

Section 2. Chapter 116 of the Revised Laws of Hawaii 1945 is hereby amended by adding a new section thereto, to be numbered section 6009.01, and to read as follows:

"Sec. 6009.01. Loans to the Territory. When there are county moneys which in the judgment of the county treasurer are in excess of the amounts necessary for the immediate county requirements, the county treasurer is authorized, with the approval of his board of supervisors, to make temporary loans therefrom to the Territory if in his judgment such action will not impede or hamper the necessary financial operations of the county. Such loans to the Territory may be made without interest, or at such rates of interest, and upon such other terms and conditions, as may be agreed upon between the county and territorial treasurers and be approved by the board of supervisors and the governor. Such loans shall be made only upon the request of the territorial treasurer, approved by the governor, and they shall be repayable upon the demand of the county treasurer." [L. 1945, c. 133, s. 2.]

Section 3. This Act shall take effect upon approval.

(Approved May 10, 1945.) H.B. 457, Act 133.

Chapter 113. DEPOSIT OF MONEY IN BANKS.

Series A-115: ACT 119

An Act to Amend Chapter 113 of the Revised Laws of Hawaii 1945, Relating to the Deposit of Territorial Funds in Banks.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 113 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(1) By amending section 5851 thereof to read as follows:

"Sec. 5851. Authorized; conditions. All moneys in the territorial treasury may be deposited by the treasurer to the credit of the Territory in such national banks, or in such banks doing business under the laws of the Territory, as the treasurer, with the approval of the governor, may select, and any sums so deposited shall be deemed to be in the territorial treasury; provided that the banks in which such money is deposited shall furnish security as hereinafter provided; and provided that the

treasurer, in case of loan fund money for which there is no immediate need, or expenditures from which would not be made for at least three months, may place such funds on time deposit on such terms and at such rates of interest as may be allowed by banks to other depositors; and provided that in selecting a depository bank the class of security offered shall be considered as the basis of selection and due regard shall be given to banks doing business in the Territory, or such parts thereof, where the disbursements of public money are or may be made; provided that no more than sixty per centum of the aggregate amount of moneys of the Territory available for deposit and on deposit shall be deposited in any one bank. All deposits of money, except time deposits, shall be paid upon demand on checks signed by the treasurer and countersigned by the auditor, or by the payment of a certificate of deposit issued by the depository, which certificate shall be endorsed by the payee named therein, as well as by the auditor. Each depository shall at the end of every month render to the treasurer a statement, in duplicate, for each of the funds of the Territory, showing the daily balances on open commercial account which were held by it during the month. One copy of said statement shall be filed by the treasurer with the auditor. The treasurer shall annually, as of July 1, furnish each depository bank with a statement, certified by the auditor, showing the amount and description of the securities on deposit with him by such bank to secure the deposits of the Territory. The duly authorized representatives of any depository shall at all times during office hours have access to the securities deposited for the purpose of examining the same and removing such coupons as may have matured, such examination to be made in the presence of the treasurer or his representative." [R. L. 1945, s. 5851; am. L. 1945, c. 119, s. 1 (1).]

(2) By amending section 5854 thereof to read as follows:

"Sec. 5854. Provisions of depository contracts. Any acceptance by a bank of deposits of treasury moneys shall constitute an acceptance of the provisions of sections 5851 and 5853, and the said provisions shall be deemed a part of and incorporated into the contract of deposit without any necessity for specific mention thereof. The treasurer shall file with the auditor a copy of any formal written contract of deposit which may be entered into." [R. L. 1945, s. 5854; am. L. 1945, c. 119, s. 1 (2).]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) H.B. 279, Act 119.

Chapter 114. INSURANCE FUND.

Series A-116: ACT 89

An Act Relating to the Territorial Insurance Fund, Providing for Transfers Thereto in the Event of its Depletion.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 114 of the Revised Laws of Hawaii 1945 is hereby amended by adding a new section at the end thereof to be designated section 5873 and to read as follows:

"Sec. 5873. **Additional appropriation to fund.** If the monetary requirements for the repair or replacement of any building or other property, or the payment of claims found to be due under chapter 77, or for any other lawful claim or charge upon the insurance fund, shall, at any time, be in excess of the total of cash, securities and investments to the credit of the territorial insurance fund, the treasurer, with the approval of the governor, is authorized to transfer to the said insurance fund (1) sufficient moneys to offset such excess of liabilities, plus an additional sum not to exceed five thousand dollars. Such transfer shall be made from any moneys which may be available in the general fund and all amounts necessary for any such transfer are hereby appropriated." [L. 1945, c. 89, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved May 5, 1945.) S.B. 362, Act 89.

Chapter 115. TERRITORIAL BOND ISSUES.

[Sec. 5923, amended by Act 8, E-220, post.]

[Sec. 5924, amended by Act 82, A-87, ante; and by Act 8, E-220, post.]

[Sec. 5926, amended by Act 8, E-220, post.]

Series A-117: ACT 42

An Act Amending Section 5927 of the Revised Laws of Hawaii 1945, and Relating to Transfers of Sinking Fund Securities to the General Fund, the Special Fund, the Revolving Fund or the Employees' Retirement System.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5927, Revised Laws of Hawaii 1945, is hereby amended by amending the last sentence thereof to read as follows:

"Any bonds, notes or other obligations in the sinking fund, may with the prior approval of the governor be transferred to the general, the special or the revolving fund, or to the trustees of the employees' retirement system, but subject however to all the terms, conditions and provisions, and in the same manner as in section 5926 provided." [R. L. 1945, s. 5927; am. L. 1945, c. 42, s. 1.]

Section 2. This Act shall take effect upon its approval. (Approved April 26, 1945.) S.B. 180, Act 42.

Note: The first part of § 5927, to which the above amendment is appended, reads:

"Sec. 5927. Purchase of bonds when. Provided it can be shown to be to the financial advantage of the Territory, the treasurer of the Territory, by and with the consent of the governor, is authorized, whenever there are any funds to the credit of the sinking fund account, in excess of the amount needed for the redemption of any bonds then matured, to buy with such funds, in the open market, bonds of any political or municipal corporation or subdivision of the Territory, or any of the outstanding bonds of the Territory, or to invest such funds in bonds or interest-bearing notes or obligations of the Territory (including territorial treasurer's warrant notes issued pursuant to the provisions of chapter 24), or of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or in federal land bank bonds or joint stock farm loan bonds. The treasurer, by and with the consent of the governor, is further authorized and empowered to sell and dispose of such bonds at such times and for such prices as shall be to the financial advantage of the Territory. The expenses of such purchase and sale, over and above the purchase price of the bonds, shall be a proper charge against this fund. The treasurer, by and with the consent of the governor, is further authorized to deposit so much of said fund as may be deemed advisable, in the savings department of any bank or in any savings bank doing business in the Territory, provided, however, that such banks furnish security for the funds so deposited in accordance with the provisions of chapter 113, except that the rate of interest shall be the usual rate of interest allowed for savings deposits."

PART B: COUNTIES.

Title 16. GENERAL GOVERNMENTAL, ETC.

Chapter 116. ADMINISTRATIVE, GENERAL.

[Sec. 6007, amended by Act 83, A-111, ante.]

Series B-118: ACT 43

An Act Authorizing and Providing for the
Investment of County Moneys in Certain Securities
and the Safekeeping of Same.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 116 of the Revised Laws of Hawaii 1945 is hereby amended by adding two new sections thereto, to be numbered sections 6008.01 and 6008.02, and to read as follows:

"Sec. 6008.01. Short term investment of county moneys. The treasurer of each of the various counties shall have authority, with the approval of the board of supervisors, to invest any county moneys which are in excess of the amounts necessary for the meeting of immediate requirements, and for which there is no other specific authorization to invest, and when in the judgment of the board of supervisors such action will not impede or hamper the necessary financial operations of the county, in any security authorized by section 6065 for the investment of county sinking fund moneys, provided the said security is due to mature not more than three years from the date of investment. The income derived therefrom shall be deposited in such fund or funds as the board of supervisors shall direct, and the board of supervisors of each county shall make the necessary appropriations and provide out of the proper funds of the county for the expenses of purchase, safekeeping, sale and redemption, and all other expenses attributable to such investments. [L. 1945, c. 43, pt. of s. 1.]

"Sec. 6008.02. Deposit of securities with mainland depositories. The treasurer of each of the various counties shall, with the approval of the board of supervisors, have the authority to deposit securities owned by the county in mainland depositories. Such securities shall be subject to all the terms, conditions and authorizations of the depository agreement which the treasurer may have or may make with any such mainland depository. Further, the treasurer of each of the various counties shall have the authority, with the approval of the board of supervisors,

and with the consent of the treasurer of the Territory, to place such securities under the control of the treasurer of the Territory for safekeeping in mainland depositories. Such securities shall be subject to all the terms, conditions and authorizations of any depository agreement which the treasurer of the Territory may have or make with any mainland depository, and all expenses thereof shall be borne by the county concerned. Moneys received by any mainland depository, on behalf of the county, or on behalf of the treasurer of the Territory for the county, from the sale or redemption of securities, or as interest, shall not for a period of thirty days after the receipt thereof by the depository be considered as deposits within the meaning of chapter 113, and moneys placed with such depositories for the purchase of securities shall not be considered as deposits within the meaning of chapter 113." [L. 1945, c. 43, pt. of s. 1.]

Section 2. The Act shall take effect upon approval.

(Approved April 26, 1945.) **S.B. 340, Act 43.**

[Sec. 6009.01, added by Act 133, A-114, ante.]

Series B-119: ACT 162

An Act to Amend Section 6017 of the Revised Laws of Hawaii 1945, Relating to Police Officers Prosecuted or Sued for Acts Done in Performance of Duty.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6017 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6017. Determination whether acts were in scope of duty. The determination of whether the acts of such police officer, for which he is being prosecuted or sued, were done in the performance of his duty, so as to entitle him to be represented by counsel provided by the county, shall be made by the police commission of the county after consultation with the county attorney who may make a recommendation to the commission with respect thereto if he so desires, and such determination shall be conclusive for such purpose only." [L. 1941, c. 135, s. 2; R. L. 1945, s. 6017; am. L. 1945, c. 162, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1945.) **H.B. 370, Act 162.**

Chapter 118. REVENUE BONDS.

Series B-120: ACT 33

An Act to Amend Chapter 118, Revised Laws of Hawaii 1945, Relating to Revenue Bonds.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 118, Revised Laws of Hawaii 1945, is hereby amended by amending section 6095 thereof to read as follows:

"Sec. 6095. Termination of power to issue bonds. Except in pursuance to any contract or agreement theretofore entered into by any municipality, no municipality shall borrow any money or deliver any bonds pursuant to this chapter to the purchasers thereof after June 30, 1947." [R. L. 1945, s. 6095; am. L. 1945, c. 33, s. 1.]

Section 2. This Act shall take effect from and after the date of its approval.

(Approved April 23, 1945.) S.B. 32, Act 33.

Chapter 120. HIGHWAYS, SIDEWALKS, ETC.

[Sec. 6124, amended by Act 172, A-86, ante.]

Series B-121: ACT 68

An Act to Amend Section 6130 of the Revised Laws of Hawaii 1945, Relating to the Construction, Maintenance and Repair of Sidewalks; and to Amend Section 6135 of the Revised Laws of Hawaii 1945, Relating to the Duty of Abutting Owners to Maintain and Clean Sidewalks.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6130 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6130. Honolulu, Wahiawa, Hilo. After the establishment of the grades of streets in Honolulu, Wahiawa and Hilo, as by law prescribed, the board may require the owners of the land adjoining any street, the grade of which has been established, to construct, maintain and repair sidewalks, including curbs, in accordance with the grade of the street and to comply with the regulations regarding the material and construction of the same." [L. 1892, c. 47, s. 13; R. L. 1945, s. 6130; am. L. 1945, c. 68, s. 1.]

Section 2. Section 6135 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6135. Owners to clean sidewalks. After the establishment of the grades of streets within the City of Honolulu and Wahiawa and the construction of streets and adjacent sidewalks under chapter 129, every property owner whose frontage abuts or adjoins such streets and sidewalks shall, after the construction of such streets and sidewalks, continuously maintain, and keep clean, passable and free from weeds and noxious growths the whole of such sidewalk as may abut or front upon his premises and property." [L. 1925, c. 124, s. 1; am. L. 1927, c. 136, pt. of s. 1; R. L. 1935, s. 2365; R. L. 1945, s. 6135; am. L. 1945, c. 68, s. 2.]

Section 3. This Act shall take effect upon its approval.
(Approved April 28, 1945.) **H.B. 691, Act 68.**

Chapter 121. PENSIONS (County).

Series B-122: ACT 264

An Act to Extend the Benefits of the Municipal and County Pension Systems and Authorizing and Directing Appropriations Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 6192.01.**] Section 1. [**Other county pensions.**] Any provision of part II of chapter 121 or any other part, chapter or section of the Revised Laws of Hawaii 1945 to the contrary notwithstanding, the pension board of each county (which term shall include the city and county of Honolulu) shall have full authority to grant pensions to former employees of such county upon the following conditions: (1) that he was required to, and did, become a member of the employees' retirement system after having been in the service and employment of the county for a period of not less than ten years; (2) that he has attained the age of sixty years, or through illness or injury sustained without his fault or negligence in the performance of duty in his service for the county has become incapable of sustained remunerative work; (3) that he has ceased to be an employee of such county and is not a member of the employees' retirement system; and (4) that he is not the recipient or beneficiary of any allowance or benefit from the employees' retirement system or any pension from the Territory or any county. [L. 1945, c. 264, s. 1.]

[Sec. 6192.02.] Section 2. [Limitation of amount.] No pension granted under the provisions of section 1 of this Act shall exceed the annual amount of one-seventieth of the average annual salary or compensation received by the person to whom such pension is granted during his last ten years of his employment by the county, multiplied by the number of years during which he was in the employment or service of such county prior to his becoming a member of the employees' retirement system; **provided**, however, that the pension granted to a person who has not attained the age of sixty years but through illness or injury sustained without his fault or negligence in the performance of duty in his service for the county has become incapable of sustained remunerative work shall be nine-tenths of the amount computed in the manner hereinabove perscribed. [L. 1945, c. 264, s. 2.]

[Sec. 6192.03.] Section 3. [Restriction as to personnel.] The provisions of this Act shall not apply to any person who is in the service or employment of the Territory or any county on or after the effective date of this Act. [L. 1945, c. 264, s. 3.]

[Sec. 6192.04.] Section 4. [County appropriations directed.] The respective boards of supervisors of the several counties are hereby authorized and directed to appropriate for the remainder of the current fiscal period and annually thereafter for each subsequent fiscal period a sum sufficient to cover the payment of the pensions granted under the provisions of this Act; **provided**, however, that the board of water supply of the city and county of Honolulu shall appropriate sufficient funds to cover pensions granted under the provisions of this Act as a result of employment in the service of said board of water supply. [L. 1945, c. 262, s. 4.]

Section 5. This Act shall take effect upon its approval.

(Approved May 22, 1945.) S.B. 378, Act 264.

[Note: See Index, topic "Appropriations," also Appendix Note 9, post, for special pensions. See also Act 218, A-18, Pension Commission.]

Title 17. GOVERNMENT OF HAWAII, KAUAI, MAUI.
Chapter 122. GENERAL PROVISIONS, ETC.

Series B-123: ACT 236

**An Act to Amend Sections 6220 and 6559
of the Revised Laws of Hawaii 1945, Relating to
County Elections.**

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6220** of the Revised Laws of Hawaii 1945 is hereby amended by adding, at the end of said section, the following sentence:

"After July 1 of the year following any general election, the ballots may be destroyed by the county clerk."

Note: As so amended, § 6220 reads:

"**Sec. 6220. Returns.** The returns of election of county officers, together with the ballots, lists and records concerning the election of county officers and copies of the statements concerning the results of such election, shall be transmitted to the county clerk of the county in which such election is held, and shall be preserved by him according to law. After July 1 of the year following any general election, the ballots may be destroyed by the county clerk. [L. 1905, c. 39, s. 34; R. L. 1945, s. 6220; am. L. 1945, c. 236, s. 1.]"

Section 2. **Section 6559** of said Revised Laws is hereby amended by adding at the end of said section, the following sentence:

"After July 1 of the year following any general election, the ballots may be destroyed by the city and county clerk."

Section 3. This Act shall take effect upon its approval.
(Approved May 19, 1945.) **S.B. 336, Act 236.**

Note: As so amended, § 6559 reads:

"**Sec. 6559. Returns.** The returns of election of city and county officers, together with the ballots, lists and records concerning the election of city and county officers, and copies of the statements concerning the results of such election, shall be transmitted to the city and county clerk and shall be preserved by him according to law. After July 1 of the year following any general election, the ballots may be destroyed by the city and county clerk. [L. 1907, c. 118, s. 45; R. L. 1945, s. 6559; am. L. 1945, c. 236, s. 2.]"

Series B-124: ACT 56

An Act to Amend Section 6233 of the Revised Laws of Hawaii 1945, Relating to Powers of the County Boards of Supervisors, by Including Bagasse Dust as a Nuisance Subject to Regulation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6233** of the Revised Laws of Hawaii 1945 is hereby amended by amending paragraph 8 thereof to read as follows:

"8. **Chimneys and smoke stacks; bagasse conveyors.** To regulate and prescribe by ordinance, (a) the construction of chimneys and smoke stacks and to compel the building of same, and to regulate and prevent the emission of dense smoke, soot or poisonous gases therefrom, and (b) the construction of bagasse conveyors and to regulate and prevent the emission of bagasse dust therefrom; and to declare any of the foregoing a nuisance."

Section 2. This Act shall take effect upon its approval.
(Approved April 28, 1945.) **H.B. 231, Act 56.**

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192A-273

Series B-125: ACT 190

An Act to Amend Sections 6233 and 6521 of the Revised Laws of Hawaii 1945, Relating to the Powers of Boards of Supervisors, with Respect to the Drainage of Storm Waters and the Removal of Debris.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6233** of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end thereof a new paragraph, which shall be appropriately numbered by the secretary of Hawaii and shall read as follows:

[8A.] **"Drainage of storm waters and removal of debris.** To maintain channels, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters; and to remove from such channels, and from the shores and beaches, any debris which is likely to create an unsanitary condition or to otherwise become a public nuisance; **provided,** that to the extent any of the foregoing work is a private responsibility such responsibility may be enforced by the county in lieu of the work being done at public expense." [L. 1945, c. 190, s. 1.]

Section 2. Section 6521 of the Revised Laws of Hawaii 1945 is hereby amended by amending paragraph 43 thereof to read as follows:

"43. **Flood control; drainage of storm waters and removal of debris.** To construct, acquire by gift, purchase, or the exercise of eminent domain, reconstruct, improve, better, extend and maintain projects or undertakings for the control of and protection against floods and flood waters, including the power to drain and rehabilitate lands already flooded. To maintain channels, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters; and to remove from such channels, and from the shores and beaches, any debris which is likely to create an unsanitary condition or to otherwise become a public nuisance; **provided**, that to the extent any of the foregoing work is a private responsibility such responsibility may be enforced by the city and county in lieu of the work being done at public expense." [L. 1935, c. 163, s. 1; am. L. 1945, c. 190, s. 2.]

Section 3. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 241, Act 190.

Chapter 124. SPECIFIC FOR HAWAII.

Series B-126: ACT 93

An Act Repealing Sections 6381, 6416, 6457 and 6524 of the Revised Laws of Hawaii 1945, Mandating the Counties to Make Appropriations for Tuberculosis Hospitals.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Sections 6381, 6416, 6457 and 6524 of the Revised Laws of Hawaii 1945 are hereby repealed.

Section 2. This Act shall take effect July 1, 1945, but only in the event an appropriation out of territorial funds is provided by law enacted by the Twenty-Third Legislature.

(Approved May 7, 1945.) S.B. 199, Act 93.

[See biennial budget, Act 272, F-230, post.]

[For other directives to Counties, see Index; also Act 277, F-242, post; Act 28, F-243, post; Act 232, F-245, post; Act 58, F-246, post; Act 235, F-258, post; Act 45, F-260, post; Act 261, F-261, post; Act 259, F-276, post.]

Series B-127: ACT 29

An Act to Amend Section 6385 of the Revised Laws of Hawaii 1945, Relating to Qualifications of Members of the Managing Committee, Hilo Memorial Hospital, in the County of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6385 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6385. Qualifications of members. The members of the Managing Committee, Hilo Memorial Hospital, shall be citizens of good standing and residents of the county of Hawaii at least three years on the date of their respective appointments; **provided**, however, that no member of the medical profession shall be eligible for appointment as a member of said committee." [L. 1941, c. 277, s. 3; R. L. 1945, s. 6385; am. L. 1945, c. 29, s. 1.]

Section 2. This Act shall take effect July 1, 1945.

(Approved April 23, 1945.) H.B. 80, Act 29.

Chapter 125. SPECIFIC FOR KAUAI.

Series B-128: ACT 75

An Act Relating to the Board of Supervisors of the County of Kauai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6412 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the words "shall consist of five members", in the second line thereof, the words "shall consist of seven members".

Section 2. This Act shall become effective only in respect of supervisors to be elected in 1946 and at subsequent elections.

(Approved May 1, 1945.) S.B. 247, Act 75.

Note: As so amended, § 6412 reads:

"Sec. 6412. Kauai supervisors; number, election. The board of supervisors of the county of Kauai shall consist of **seven members**, one of whom shall be elected as chairman and executive officer of the board and all of whom shall be elected at large from among those who have been qualified

electors of the county for at least one year prior to their election. All such elections shall be conducted in the manner prescribed by law for the election of county officers. [L. 1905, c. 39, s. 12a; am. imp. L. 1907, c. 118; am. imp. L. 1911, c. 149; R. L. 1925, s. 1586; am. L. 1929, c. 100, s. 1; R. L. 1935, s. 2892; am. L. 1937, c. 100, pt. of s. 1; R. L. 1945, s. 6412; am. L. 1945, c. 75, s. 1.]

[Note: For other directives, see Index "Appropriations"; also, Act 277, F-242, post; Act 213, F-244, post; Act 71, F-266, post; Act 61, F-271, post; Act 167, F-272, post.]

Series B-129: ACT 6

REP. 49
Sr. B-188A.16.

An Act to Suspend the Requirements of Sections 6413 and 6414 of the Revised Laws of Hawaii 1945, Authorizing and Directing the Board of Supervisors of the County of Kauai to Appoint a County Dentist to Care for Indigent Patients, and to Appropriate Funds for His Equipment, Salary and Expenses.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 6414.01. Suspension of appropriation requirements for dentist.]

Section 1. The requirements of sections 6413 and 6414 of the Revised Laws of Hawaii 1945, authorizing and directing the board of supervisors of the county of Kauai to appoint a county dentist to care for indigent patients, and to appropriate funds for his equipment, salary and expenses, are suspended during the period when funds appropriated by the Territory or by the federal government, or both, are available, and are used, for such purpose; **provided** that nothing herein contained shall be deemed to prohibit the county from supplementing such territorial or federal funds for the same purposes, where the same shall be found insufficient to provide adequately for the needs of said county. [L. 1945, c. 6, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 3, 1945.) H.B. 69, Act 6.

[Sec. 6416, repealed by Act 93, B-126, ante. See biennial budget, Act 272, F-230, post.]

[Sec. 6457, repealed by Act 93, B-126, ante. See biennial budget, Act 272, F-230, post.]

Series B-130: ACT 41

An Act Relating to Certain Maui Hospitals and Repealing Sections 6459 to 6463, Both Inclusive, of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Sections 6459 to 6463, both inclusive, of the Revised Laws of Hawaii 1945 are hereby repealed.

Section 2. This Act shall take effect upon its approval.
(Approved April 26, 1945.) S.B. 119, Act 41.

[Note: For other directives see Index, "Appropriations"; also, Act 277, F-242, post; Act 245, F-267, post; Act 130, F-268, post; Act 242, F-269, post; Act 230, F-273, post.]

Series B-131: ACT 27

An Act to Amend Paragraph Numbered 2 of Section 6521, Revised Laws of Hawaii 1945, Relating to the Powers and Duties of the Board of Supervisors of the City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph numbered 2 of section 6521, Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"2. Use of streets, etc. To regulate and control for any and every purpose the use of the streets, highways, public thoroughfares, public places, alleys, and sidewalks of the city and county, and without limitation upon the generality of such power, to regulate or prohibit the hawking, selling, or vending of goods, wares, merchandise, food-stuffs, refreshments, or other kinds of property or services thereon." [R. L. 1945, s. 6521 (2); am. L. 1945, c. 27, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved April 23, 1945.) S.B. 271, Act 27.

[Sec. 6521 (12), amended by Act 172, A-86, ante.]

Series B-132: ACT 97

An Act Granting to the Board of Supervisors of the City and County of Honolulu the Authority to Reconvey Real Property Acquired by the City and County by Gift or for Nominal Consideration Where the Purpose for Which Such Property was Taken has been Abandoned.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6521 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new subsection which shall be appropriately numbered and shall read as follows:

[35A. Reconveyance of gift property, when?]

"Subject to the limitations hereinafter contained, to reconvey to the donors, their heirs or assigns, within ten years from the date of the acquisition thereof, without requiring compensation therefor, any real property or portion thereof, acquired by the city and county by way of gift or for nominal consideration whenever the board deems it advisable to abandon the use of such property or said portion thereof for the purpose for which it was acquired, any other applicable provision of the law to the contrary notwithstanding. Where the return of such property would have the effect of cutting off an abutting owner's street frontage such property shall be first offered to such owner as provided in Section 6101 of the Revised Laws of Hawaii 1945." [L. 1945, c. 97, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) H.B. 508, Act 97.

[Sec. 6521 (43) amended by Act 190, B-125, ante.]

Series B-133: ACT 141

An Act Directing the Board of Supervisors of the City and County of Honolulu to Acquire Certain Property Bordering on the Ocean as an Addition to Waikiki Beach Park Area, and Providing Means of Raising the Necessary Funds Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 6522.01.] Section 1. [Additions to Waikiki Beach Park.] The board of supervisors of the city and county of Ho-

nolulu is hereby directed to acquire, with all feasible speed, either by purchase or condemnation, those certain parcels of land bordering on the ocean described in the real property tax maps of the Territory of Hawaii as parcels numbered 4 and 5 of zone 3, section 1, plat 30, of the first taxation division, as an addition to the Waikiki beach park area. Any amount of money necessary for so acquiring any of said parcels shall be raised by the city and county during either or both of the two years following the acquisition of such parcel, by including such amount in the city and county budget submitted pursuant to section 5252 of the Revised Laws of Hawaii 1945, and thereupon the same shall be included in the real property tax rate for such year or years; and any provision of said section 5252 or of any other law to the contrary notwithstanding, the real property tax rate limit for such year or years for said city and county shall be and hereby is increased over and above that fixed by said section or otherwise fixed by law, by such amount as shall be included for the purposes of this Act in such budget for such year or years. [L. 1945, c. 141, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 11, 1945.) H.B. 649, Act 141.

[Sec. 6524, repealed by Act 93, B-126, ante. See biennial budget Act 272, F-230, post.]

[Sec. 6526, amended by Act 83, A-111, ante.]

Series B-134: ACT 225

l. '49

2169A153

An Act to Amend Chapter 127 of the Revised Laws of Hawaii 1945 by Adding Thereto a New Section to be Numbered 6527.01, to Provide for the Construction and Operation of Public Off-Street Parking Facilities in the District of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 127 of the Revised Laws of Hawaii 1945, is hereby amended by adding thereto a new section to be numbered section 6527.01, reading as follows:

"Sec. 6527.01. Public off-street parking facilities; method of construction; procedure; operation. The board of supervisors of the city and county shall have power to acquire, improve, construct, maintain, repair and operate public off-street parking

facilities in the district of Honolulu. The term 'public off-street parking facilities' shall mean and include land necessary or convenient for public off-street parking, rights of way, streets or alleys necessary or convenient for ingress to or egress from such public off-street parking facilities, buildings, equipment or any other property necessary or convenient for off-street parking purposes. Unless it clearly appears from the context of a provision in chapter 129, Revised Laws of Hawaii 1945, relating to improvement by assessment, that the same is inapplicable, the provisions of said chapter 129 applicable to the acquisition, improvement and construction of a storm drainage system shall apply to the acquisition, improvement and construction of public off-street parking facilities and the board for the purpose of acquiring, improving and/or constructing such public off-street parking facilities may, in accordance with the procedure established by the provisions of chapter 129 applicable to the construction of a storm drainage system, create within the district of Honolulu one or more public off-street parking districts, acquire, improve and/or construct public off-street parking facilities, levy assessments against the land within such public off-street parking district either on a frontage basis or according to the area of such land or on both area and frontage basis to pay the entire cost and expenses of the acquisition, improvement and/or construction of such facilities, collect and enforce all assessments levied, and issue, sell and pay bonds which may be necessary to provide the funds to pay the cost of such facilities; **provided** that land owned by or in the possession of the United States or any of its agencies, or the Territory or any of its political subdivisions or agencies which cannot lawfully be made subject to the assessments provided for herein, or any other land which in the judgment of the board will not be benefited by the acquisition, improvement and/or construction of such facilities, shall not be included within such district; and **provided**, further, that no land to be acquired hereunder for public off-street parking facilities shall be assessed.

All of the provisions of chapter 129 relating to assessments and bonds shall be applicable to any assessment made or bonds issued under the provisions of this section." [L. 1945, c. 225, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 372, Act 225.

[Sec. 6550-53, amended, Sec. 6555, repealed by Act 263, A-4, ante.]

[Sec. 6559, amended by Act 236, B-123, ante, relating to destruction of election ballots.]

Series B-135: ACT 138

An Act to Amend Section 6594 of the Revised Laws of Hawaii 1945, Relating to the Auditor, City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6594** of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto the following provision at the end of said section, to be worded as follows:

"In all audits and examinations made by the auditor in accordance with this section, it shall be his duty to also examine the accounting procedures; to make his recommendations to the controller as to the modifications, revisions or changes necessary to promote better accounting control; and, upon the approval of the controller and subject to the provisions of section 1568, to make such modifications, revisions or changes." [R. L. 1945, s. 6594; am. L. 1945, c. 138, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 11, 1945.) **H.B. 574, Act 138.**

Note: The first part of § 6594, to which the above amendment is added, reads:

"Sec. 6594. Warrants, audits. The auditor shall draw all warrants and maintain a record of same; but no warrant on the treasury shall be drawn by him until after preaudit and written approval of the claim which it is intended to pay, by the controller. The auditor shall between the first and tenth day of each month examine the books of the treasurer, and, at least once in each calendar year, shall audit the accounts of all boards, officers and employees of the city and county charged in any manner with the custody, collection or disbursement of funds; **provided** that he shall make a monthly audit of each departmental revolving fund. All such audit reports shall, upon completion, be submitted to the mayor, members of the board of supervisors and controller for necessary action."

[Sec. 6614, amended by Act 95, A-10, ante, permitting attorneys to be masters. See the section as there re-written in full in the note to that act.]

Series B-136: ACT 7

An Act to Amend Section 6636 of the Revised Laws of Hawaii 1945, Relating to the Master Plan of the City of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6636** of the Revised Laws of Hawaii 1945 is hereby amended by deleting the figures "1945" in line 2 thereof, and inserting in lieu thereof the figures "1947".

Section 2. This Act shall take effect upon its approval.

(Approved April 5, 1945.) S.B. 169, Act 7.

[Note: This Act extends to Dec. 31, 1947, the time limit to prepare the master plan for Honolulu.]

Chapter 130. PARKS: BOARD OF PUBLIC PARKS AND RECREATION.

Series B-137: ACT 237

AM. '49

An Act Relating to Public Parks, Recreation and Playgrounds, Amending Chapter 130 of the Revised Laws of Hawaii 1945, and Repealing All Laws, Ordinances, Rules and Regulations in Conflict with this Act.

A...3

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6761 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6761. Board of public parks and recreation established. There is hereby created a board which shall be known as 'board of public parks and recreation of the city and county of Honolulu'. The board shall consist of nine members, eight of whom shall be appointed by the mayor with the approval of the board of supervisors. One of the members so appointed shall be designated annually by the mayor as chairman of the board. The superintendent of public instruction of the Territory of Hawaii or such person as may be designated by him shall be ex officio a member of the board." [L. 1931, c. 175, pt. of s. 2; R. L. 1935, s. 3220; am. L. 1937, c. 16, s. 1; R. L. 1945, s. 6761; am. L. 1945, c. 237, s. 1.]

Section 2. Section 6762 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6762. Term of office. The term of office of the appointive members of the board shall be three years from and after the date of their respective appointments; **provided**, however, that of the members first to be appointed under the provisions of this Act, three shall be appointed for a term ending December 31, 1946, three for a term ending December 31, 1947, and two for a term ending December 31, 1948." [L. 1931, c. 175, pt. of s. 2; R. L. 1935, s. 3221; am. L. 1937, c. 16, s. 2; R. L. 1945, s. 6762; am. L. 1945, c. 237, s. 2.]

Section 3. Section 6763 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6763. Quorum. Five members of the board shall constitute a quorum for the exercise of the powers or authority conferred upon it; but the concurrence of at least five members shall be necessary to make any action of the board valid." [L. 1931, c. 175, pt. of s. 2; R. L. 1945, s. 6763; am. L. 1945, c. 237, s. 3.]

Section 4. Section 6768 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6768. Parks, recreation and playgrounds in charge of board. All public parks, public recreation grounds and public playgrounds in the city and county of Honolulu owned by said city and county or in its possession or control other than Makiki Valley park or reservation, together with all equipment, supplies and paraphernalia, and all real or personal property of whatsoever nature used in connection with the same, shall be under the control and management of the board of public parks and recreation, including without prejudice to the generality of the foregoing, all personal and other property now in the possession and control of the recreation commission of the city and county of Honolulu.

The board shall determine the value of all permanent improvements to parks, recreation grounds and playgrounds and in this regard shall determine the additional property that may be acquired from time to time and the kind and nature of improvements to be constructed on the same.

The board shall also have full and complete authority over the trimming and removal of all shade trees, hedges and shrubs growing on the public streets of the district of Honolulu and the planting of the same upon such streets, and concurrently with the respective property owners shall have full and complete authority over the trimming and removal of all shade trees, hedges and shrubs growing over the public streets of such district." [L. 1931, c. 175, pt. of s. 2; R. L. 1935, s. 3227; am. L. 1939, c. 242, s. 6 (2); R. L. 1945, s. 6768; am. L. 1945, c. 237, s. 4.]

Section 5. Section 6769 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6769. Purchases and sale of public parks and recreational property; contracts. The board of supervisors is empowered and authorized to purchase, sell, exchange or otherwise dispose of park or recreational property, whether real or personal, with the prior written approval of the board of public parks and recreation, **provided**, however, that the board of supervisors may

purchase, sell, exchange or otherwise dispose of park or recreational property in the absence of such approval, by the affirmative vote of at least five of its members. All proceeds of any such sale shall be deposited with the city and county treasurer and all such proceeds from the sale of real property shall be expended only for the acquisition of other real property for park and recreational purposes, and all such proceeds from the sale of such personal property shall be expended only for the acquisition of other personal property for park or recreational purposes.

The board of public parks and recreation shall have power to contract for work and to purchase supplies, materials and equipment, the cost of all of which shall be paid from funds it may have on hand either by appropriation from the board of supervisors or otherwise.

All contracts shall be executed in the name of the board of public parks and recreation and shall be signed by the chairman or acting chairman. The board of public parks and recreation shall also have authority to contract for the importation of or to import for the purpose of keeping and to keep in captivity foreign birds for educational and scientific purposes, subject to the rules and regulations of the board of agriculture and forestry relative to the importation and keeping in captivity of such birds." [L. 1931, c. 175, pt. of s. 2; R. L. 1935, s. 3228; am. L. 1935, c. 196, s. 3; am. L. 1939, c. 242, s. 6 (3); R. L. 1945, s. 6769; am. L. 1945, c. 237, s. 5.]

Section 6. Section 6770 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6770. Appointment of employees. The board shall appoint and fix the compensation of a full time superintendent who shall not be subject to civil service and shall appoint such other employees as it may deem necessary and fix their compensation subject to the provisions of chapters 2 and 3." [L. 1931, c. 175, pt. of s. 2; R. L. 1935, s. 3229; am. L. 1935, c. 196, s. 4; R. L. 1945, s. 6770; am. L. 1945, c. 237, s. 6.]

Section 7. Section 6772 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6772. Appropriations. The board of supervisors shall appropriate for the use of the board of public parks and recreation from the general funds of the city and county a sum of not less than \$350,000.00 per annum, to be made available in equal monthly amounts for the maintenance and development of parks, playgrounds and other recreational facilities. The board of supervisors may, from time to time in its discretion, appropriate from the proper funds moneys to be used by the

board of public parks and recreation in the furtherance of its parks, playgrounds and other recreational facilities development plans. Any unexpended balance of the appropriation made under this section remaining at the end of any calendar year shall be deducted from the amount to be appropriated from the ensuing year." [L. 1931, c. 175, pt. of s. 2; am. L. 1933, c. 75, s. 1; R. L. 1935, s. 3232; am. L. 1935, c. 196, s. 7; am. L. 1939, c. 242, s. 6 (6); R. L. 1945, s. 6772; am. L. 1945, c. 83, s. 4; am. L. 1945, c. 237, s. 7.]

Section 8. Section 6774 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6774. Income from operation of parks, playgrounds and recreational facilities. The board of public parks and recreation is authorized to rent or grant, to citizens only, concessions to any park or playground areas or improvements that may be deemed by it to be in the interest of the city and all revenues derived from concessions shall be deposited in the general fund and shall be appropriated by the board of supervisors for the use of the board of public parks and recreation in addition to any other appropriations required by law to be made for said board. Any unexpended balances of such special revenues existing at the end of any fiscal year shall be re-appropriated for the use of the board of public parks and recreation during the next succeeding year." [L. 1931, c. 175, pt. of s. 2; R. L. 1935, s. 3234; am. L. 1939, c. 242, s. 6 (7); am. L. 1943, c. 47, s. 1; R. L. 1945, s. 6774; am. L. 1945, c. 237, s. 8.]

[Sec. 6760.01.] Section 9. [Construction of terms.] Chapter 130 of the Revised Laws of Hawaii 1945 is hereby further amended by substituting for the term "park board" the term "board of public parks and recreation". It is provided further, that wherever in this Act the word "board" is used reference is thereby made to the board of public parks and recreation established by this Act and that wherever the term "park" or "parks" is used, unless it clearly appears to be otherwise intended, parks, recreational grounds and playgrounds are included in the term. [L. 1945, c. 237, s. 9.]

[Note: This s. 9 affects §§ 6764-67, 6771, 6773, 6775.]

Section 10. All laws, ordinances, rules and regulations in conflict with this Act are hereby repealed.

Section 11. This Act shall take effect on January 1, 1946, but the appointive members of the board may be appointed prior to said date.

(Approved May 19, 1945.) S.B. 339, Act 237.

Series B-138: ACT 91

An Act to Amend Section 6812 of the Revised Laws of Hawaii 1945, Relating to the Honolulu Police Department.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6812 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 6812. Balance of appropriations. Any moneys appropriated for any year remaining unexpended may, at the discretion of the commission, be carried over for its use during any subsequent period, **provided**, however, that such unexpended amount shall be deducted from the amount required to be appropriated for such subsequent period." [L. 1943, c. 184, s. 3; R. L. 1945, s. 6812; am. L. 1945, c. 91, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 7, 1945.) H.B. 412, Act 91.

Note: See Act 162, B-119, ante page 215, when police are to be represented by an attorney provided by the county; also, Act 263, A-4, ante page 7, amending §§ 6550-53, repealing § 6555, re police pay; also, Act 83, A-111, ante page 205, amending § 6526, re appropriations for the police.

PART C: BUSINESS; CORPORATIONS.

Title 19. BUSINESS—COUNTIES.

Chapter 133. COUNTY LICENSES.

Series C-139: ACT 36

An Act to Add to the Revised Laws of Hawaii 1945 a New Section Making it Unlawful to Permit Minors to Play Certain Games for which a Fee is Charged.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to the Revised Laws of Hawaii 1945 a new section, to be numbered section 7036.01, reading as follows:

"Sec. 7036.01. It shall be unlawful for any person operating or in charge of the operation of any ball or marble game, as defined in section 7035, or any dart or similar game for which a fee is charged for playing, to permit any minor unaccompanied by either a parent or guardian, or an adult person duly authorized by a parent or guardian to accompany such child, to play the same, and upon conviction therefor, such person shall be punished by a fine of not more than \$100, or by imprisonment for not more than thirty days, or both." [L. 1945, c. 36, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 24, 1945.) H.B. 405, Act 36.

Chapter 137. INTOXICATING LIQUOR.

Series C-140: ACT 144

An Act to Amend Section 7221 of the Revised Laws of Hawaii 1945, Relating to Intoxicating Liquor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7221 of the Revised Laws of Hawaii 1945 is hereby amended by amending the proviso at the end of the 5th paragraph thereof to read as follows:

"provided, however, the word 'club' shall not apply to any organization not in existence for at least one year prior to its application for a license."

Section 2. This Act shall take effect upon its approval.
(Approved May 11, 1945.) H.B. 588, Act 144.

[Note: This amendment merely changes the words "two years" in the last line on page 903, R. L. 1945 to "one year".]

Series C-141: ACT 217

An Act to Amend Section 7252 of the Revised Laws of Hawaii 1945 Relating to Reports by Liquor Inspectors.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph 9 of section 7252 of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 229, Act 217.

[Note: The deletion omits the necessity of a recommendation in the report of the inspector on the application for a license.]

Chapter 138. MOTOR VEHICLES: CHAUFFEUR'S, ETC.—LICENSE.

Series C-142: ACT 110

An Act to Amend Section 7305 of the Revised Laws of Hawaii 1945, Relating to Special Restrictions on Drivers of School Busses and Public Motor Vehicles.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7305 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first paragraph thereof to read as follows:

"Sec. 7305. Special restrictions on drivers of school busses and public motor vehicles. 1. No person who is under the age of twenty years shall drive any motor vehicle while in use as a school bus nor any motor vehicle while in use as a common or public carrier of persons and no person who is under the age of eighteen years shall drive any motor vehicle while in use as a common or public carrier of property. In addition thereto such person must be licensed as a chauffeur and shall have received a chauffeur's license. Notwithstanding paragraph

2 of section 7304, a special chauffeur's license for persons of the age of at least eighteen may be issued solely for the operation of a motor vehicle used exclusively as a common or public carrier of property."

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) H.B. 166, Act 110.

Note: The rest of § 7305 reads:

"2. No person shall operate a motor vehicle in which passengers are conveyed for hire unless he shall have been licensed as a chauffeur and received a chauffeur's license and shall have had one year of driving experience prior to operating such vehicle.

"3. No person shall be granted a chauffeur's license unless he shall have had six months of driving experience prior to the application therefor, and until he files with the examiner of chauffeurs one or more certificates signed by a total of at least three responsible people to whom he is well known, certifying as to his good character and habits.

"4. No such license shall be granted until the examiner of chauffeurs shall be fully satisfied as to the applicant's competency and fitness.

"Rules. The examiner of chauffeurs shall impose such rules and regulations for the exercise of such chauffeur's license as he may deem necessary for the safety and welfare of the traveling public, which rules and regulations shall, in order to become effective, be approved by the chief of police of the county wherein same are to apply.

"This section shall in no way be construed as limiting the powers conferred upon the public utilities commission by section 4719." [L. 1937, c. 234, s. 5; am. L. 1943, c. 177; R. L. 1945, s. 7305; am. L. 1945, c. 110, s. 1.]

[See R. L. 1945, s. 1724.]

Title 20. BUSINESS, ETC.—TERRITORY.

Chapter 145. BOXING.

Series C-143: ACT 202

An Act Relating to the Boxing Commission and Amending Section 7553 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7553 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the last paragraph thereof the following:

"The members of the commission shall be allowed their reasonable expenses for travel and other costs necessarily incidental to the discharge of their duties and shall each receive and be paid compensation for their services at the

rate of ten dollars per day for each day's actual attendance upon their duties, but the members of the commission shall not receive more than fifty dollars each per month on account of such compensation."

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 358, Act 202.

Note: As so amended, § 7553 reads:

"Sec. 7553. Term of office and expenses of commissioners. The members of the commission shall be appointed, one for a term to expire on December 31, 1937, one for a term to expire on December 31, 1938, one for a term to expire on December 31, 1939, one for a term to expire on December 31, 1940, and one for a term to expire on December 31, 1941; thereafter every appointment shall be made for a term of five years commencing from the date of the expiration of the last preceding term. Any vacancy shall be filled by appointment for the remainder of the unexpired term.

If any member who is selected from among the delegates to the Hawaiian Association of the Amateur Athletic Union of the United States of America ceases to be such delegate, his term of office shall terminate ipso facto.

The members of the commission shall be allowed their reasonable expenses for travel and other costs necessarily incidental to the discharge of their duties and shall each receive and be paid compensation for their services at the rate of ten dollars per day for each day's actual attendance upon their duties, but the members of the commission shall not receive more than fifty dollars each per month on account of such compensation."
[L. 1929, c. 216, s. 2; R. L. 1935, s. 6992; am. L. 1937, c. 213, s. 2; R. L. 1945, s. 7553; am. L. 1945, c. 202, s. 1.]

Title 21. CORPORATIONS—PARTNERSHIPS.

Chapter 152. BANKS.

Series C-144: ACT 143

An Act to Provide that Sections 8034, 8041, 8042, 8043 and 8304 of the Revised Laws of Hawaii 1945 Shall Not Apply in Certain Respects to Banks and Other Corporations When Controlled, Supervised, or Regulated by the Alien Property Custodian or a Similar Agency of the United States, or When Stock Therein is Owned by the United States Pursuant to the Trading with the Enemy Act, as Amended, or Similar Laws.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 8041.01.] Section 1. [Waiver of residence, etc., when.] Nothing in sections 8034, 8041, 8042, 8043 or 8304 of the Revised Laws of Hawaii 1945 shall prevent the election or installation in

office of any director or officer of any bank or other corporation controlled, supervised or regulated by the Alien Property Custodian or other agency of the United States succeeding to the functions of the Alien Property Custodian, or in which stock is held by the Alien Property Custodian or such successor agency in the interest of and for the benefit of the United States, pursuant to the provisions of the Act of October 6, 1917, 40 Statutes at Large 411, chapter 106, as amended, known as the "Trading with the Enemy Act", or any similar federal law, notwithstanding such directors or officers are not residents of the Territory or are not shareholders of such bank or other corporation, if they be otherwise qualified. If as a result of the foregoing any board of directors shall not have the number of resident directors required by law such board nevertheless shall be lawful and shall be empowered to function. [L. 1945, c. 143, s. 1.]

[Sec. 8041.02.] Section 2. This Act shall apply only with respect to the exercise of powers pursuant to the Trading with the Enemy Act and Executive Order No. 9095 of the President, as the same have been or may be amended, or similar federal laws or executive orders. [L. 1945, c. 143, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 11, 1945.) H.B. 713, Act 143.

[Note: This Act amends §§ 8034, 8041, 8042, 8043, 8304.]

Chapter 153. BUILDING AND LOAN ASSOCIATIONS.

Series C-145: ACT 98

49
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An Act to Amend Chapter 153 of the Revised Laws of Hawaii 1945, Relating to Building and Loan Associations and Savings and Loan Associations, by Adding a New Section Thereto, to be Numbered Section 8222.01, Relating to Loans on Homes Constructed or to be Constructed on Leaseholds.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 153 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section, to be numbered section 8222.01, reading as follows:

"Sec. 8222.01. **Loans on homes on leased property.** Loans may be made on leased property in the Territory and the improvements thereon, when the borrower has made his home or proposes to erect his home on such leased property, and the

unexpired term of the lease at the time the loan is made is not less than twenty years. Every such loan shall be secured by mortgage on the leasehold and improvements of such home, such mortgage not to exceed seventy-five per cent of the unencumbered appraised value thereof. All the provisions of section 8222, except the first paragraph thereof, shall be applicable, *mutatis mutandis*, to any loan made under this section. Nothing herein shall prohibit the association from receiving additional security on real estate and other leasehold and improvements thereon from any borrower. [L. 1945, c. 98, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) H.B. 698, Act 98.

[Sec. 8304, amended by Act 143, C-144, ante.]

Chapter 155. CORPORATIONS.

Series C-146: ACT 228

An Act to Amend Chapter 155 of the Revised Laws of Hawaii 1945, Relating to Corporations, by Inserting Therein Three New Sections to be Designated Section 8332.01, Relating to Annual Meetings, Section 8332.02, Relating to Special Meetings for Election of Directors, and Section 8332.03, Relating to Cumulative Voting.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 155 of the Revised Laws of Hawaii 1945 is hereby amended by inserting therein three new sections, to be designated section 8332.01, section 8332.02 and section 8332.03, and to read as follows:

"Sec. 8332.01. Annual meetings. Unless otherwise provided in the articles of association or by-laws the annual meeting of the stockholders or members of every corporation, for the election of directors and the consideration of such other business as may come before the meeting, shall be held on the first Monday of April in each year, if not a legal holiday, and if a legal holiday, on the next secular day following. [L. 1945, c. 228, pt. of s. 1.]

"Sec. 8332.02. Special meetings for election of directors. Whenever the annual meeting of the stockholders or members of a corporation shall not be held as provided in the articles of association or by-laws or as provided in section 8332.01, or

whenever the annual meeting shall be held but directors shall not be elected thereat, the directors who might have been elected at the annual meeting may be elected at a special meeting called and held for that purpose upon demand for such special meeting made in writing by any stockholder or stockholders or member or members of the corporation and delivered to the president, vice president, secretary or treasurer of the corporation. Within fifteen days after such demand, a special meeting of the stockholders or members shall be called for the election of the directors who might have been elected at the annual meeting. In case the duly authorized officer or officers of the corporation shall fail to call such special meeting then such special meeting may be called by the stockholder or stockholders or member or members who made the demand, by giving notice in the method provided by the articles of association or by-laws of the corporation. In case the articles of association or by-laws provide that the number of directors shall be determined at the annual meeting, then the number thereof may be determined at the special meeting held as provided in this section. [L. 1945, c. 228, pt. of s. 1.]

"Sec. 8332.03. Cumulative voting. If not less than forty-eight hours prior to the time fixed for any annual meeting, or prior to the time fixed for any special meeting to be held as provided in section 8332.02, or prior to the time fixed for any other special meeting to be held in lieu of the annual meeting for the election of directors, any stockholder or stockholders or member or members of the corporation shall deliver to the president, vice president, secretary or treasurer of the corporation a request that the election of directors to be elected at said meeting shall be by cumulative voting, then the directors to be elected at said meeting shall be chosen as follows: each stockholder present in person or represented by proxy at the meeting shall have a number of votes equal to the number of shares of capital stock owned by such stockholder or member multiplied by the number of directors to be elected at the meeting or in the case of a non-profit corporation each member shall have a number of votes equal to the number of directors to be elected at the meeting; each stockholder or member shall be entitled to cumulate his votes and give all thereof to one nominee or to distribute his votes in such manner as the stockholder or member shall determine among any or all of the nominees; and the nominees receiving the highest number of votes on the foregoing basis, up to the total number of directors to be elected at the meeting, shall be the successful nominees. The right to have directors elected by cumulative voting as aforesaid shall exist notwithstanding that provision therefor shall not be included in the articles of association or by-laws, and such right

shall not be restricted or qualified by any provisions of the articles of association or by-laws. The provisions of this section shall not prevent the filling of vacancies in the directors, which vacancies may be filled in such manner as may be provided in the articles of association or by-laws." [L. 1945, c. 228, pt. of s. 1.]

[Sec. 8332.04.] Section 2. The provisions of this Act shall apply with equal force to corporations already organized and doing business as to corporations that may be organized in the future. [L. 1945, c. 228, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 19, 1945.) S.B. 117, Act 228.

Chapter 160. FIDUCIARIES—INVESTMENTS.

Series C-147: ACT 223

An Act Authorizing Banks, Building and Loan Associations, Insurance Companies and Trust Companies to Make Certain Loans Which Are Guaranteed by the Administrator of Veterans Affairs Under the Servicemen's Readjustment Act of 1944.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 8438 of the Revised Laws of Hawaii 1945, is hereby amended by substituting a semi-colon for the period at the end of the first paragraph thereof and adding thereto the following:

"further, they are authorized to make such loans upon the security of real property or interests in real property as are guaranteed by the administrator of veterans affairs pursuant to the servicemen's readjustment Act of 1944, or for which there is a commitment to so guarantee."

Section 2. This Act shall take effect upon approval.

(Approved May 17, 1945.) S.B. 299, Act 223.

Note: As so amended, § 8438 reads:

"Sec. 8438. Mortgages insured under National Housing Act; exempt from territorial requirements. Pursuant to such regulations not inconsistent with this part, as the bank examiner of the Territory finds to be necessary and proper and prescribes (which regulations need not be published in any newspaper in order to be valid), banks, savings banks, building and loan associations, insurance companies and trust companies are authorized to make such loans secured by mortgages as are insured by the federal housing administration, and to obtain such insurance; further, they are authorized to make such loans upon the security of real property or interests in real

property as are guaranteed by the administrator of veterans affairs pursuant to the servicemen's readjustment Act of 1944, or for which there is a commitment to so guarantee.

No law of the Territory prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made shall be deemed to apply to loans made pursuant to the foregoing paragraph." [L. 1935, c. 109, s. 1; am. L. 1937, c. 58, pt. of s. 1; am. L. 1941, c. 47, s. 1; R. L. 1945, s. 8438; am. L. 1945, c. 223, s. 1.]

[See also investment provisions in c. 152, banks, especially ss. 8057-8071; trust companies, s. 8661; building and loan, c. 153, ss. 8221-8230; insurance companies, s. 8494.]

Series C-148: ACT 197

An Act Relating to the Liabilities of Persons Dealing with Fiduciaries, and to Make Uniform the Law with Reference Thereto, and Repealing All Laws Inconsistent Therewith.

Be it Enacted by the Legislature of the Territory of Hawaii:

CHAPTER 160 A. FIDUCIARIES, UNIFORM ACT.]

[Sec. 8445.01.] Section 1. **Definition of terms.** (1) In this Act unless the context or subject-matter otherwise requires:

"Bank" includes any person or association of persons, whether incorporated or not, carrying on the business of banking.

"Fiduciary" includes a trustee under any trust, expressed, implied, resulting or constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer, or any other person acting in a fiduciary capacity for any person, trust or estate.

"Person" includes a corporation, partnership, or other association, or two or more persons having a joint or common interest.

"Principal" includes any person to whom a fiduciary as such owes an obligation.

(2) A thing is done "in good faith" within the meaning of this Act, when it is in fact done honestly, whether it be done negligently or not. [L. 1945, c. 197, s. 1.]

[Sec. 8445.02.] Section 2. **Application of payments made to fiduciaries.** A person who in good faith pays or transfers to a fiduciary any money or other property which the fiduciary as

such is authorized to receive, is not responsible for the proper application thereof by the fiduciary; and any right or title acquired from the fiduciary in consideration of such payment or transfer is not invalid in consequence of a misapplication by the fiduciary. [L. 1945, c. 197, s. 2.]

[Sec. 8445.03.] Section 3. **Registration of transfer of securities held by fiduciaries.** If a fiduciary in whose name are registered any shares of stock, bonds or other securities of any corporation, public or private, or company or other association, or of any trust, transfers the same, such corporation or company or other association, or any of the managers of the trust, or its or their transfer agent, is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in making the transfer, or to see to the performance of the fiduciary obligation, and is liable for registering such transfer only where registration of the transfer is made with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in making the transfer, or with knowledge of such facts that the action in registering the transfer amounts to bad faith. [L. 1945, c. 197, s. 3.]

[Sec. 8445.04] Section 4. **Transfer of negotiable instrument by fiduciary.** If any negotiable instrument payable or indorsed to a fiduciary as such is indorsed by the fiduciary, or if any negotiable instrument payable or indorsed to his principal is indorsed by a fiduciary empowered to indorse such instrument on behalf of his principal, the indorsee is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in indorsing or delivering the instrument and is not chargeable with notice that the fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument with actual knowledge of such breach or with knowledge of such facts that his action in taking the instrument amounts to bad faith. If, however, such instrument is transferred by the fiduciary in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, or is transferred in any transaction known by the transferee to be for the personal benefit of the fiduciary, the creditor or other transferee is liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in transferring the instrument. [L. 1945, c. 197, s. 4.]

[Sec. 8445.05.] Section 5. **Check drawn by fiduciary payable to third person.** If a check or other bill of exchange is drawn by a fiduciary as such, or in the name of his principal by a fiduciary empowered to draw such instrument in the name

of his principal, the payee is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in drawing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument with actual knowledge of such breach or with knowledge of such facts that his action in taking the instrument amounts to bad faith. If, however, such instrument is payable to a personal creditor of the fiduciary and delivered to the creditor in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, or is drawn and delivered in any transaction known by the payee to be for the personal benefit of the fiduciary, the creditor or other payee is liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the instrument. [L. 1945, c. 197, s. 5.]

[Sec. 8445.06.] Section 6. **Check drawn by and payable to fiduciary.** If a check or other bill of exchange is drawn by a fiduciary as such or in the name of his principal by a fiduciary empowered to draw such instrument in the name of his principal, payable to the fiduciary personally, or payable to a third person and by him transferred to the fiduciary, and is thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in transferring the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument with actual knowledge of such breach or with knowledge of such facts that his action in taking the instrument amounts to bad faith. [L. 1945, c. 197, s. 6.]

[Sec. 8445.07.] Section 7. **Deposit in name of fiduciary as such.** If a deposit is made in a bank to the credit of a fiduciary as such, the bank is authorized to pay the amount of the deposit or any part thereof upon the check of the fiduciary, signed with the name in which such deposit is entered, without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in drawing the check or with knowledge of such facts that its action in paying the check amounts to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the check. [L. 1945, c. 197, s. 7.]

[Sec. 8445.08.] Section 8. **Deposit in name of principal.** If a check is drawn upon the account of its principal in a bank by a fiduciary who is empowered to draw checks upon his principal's account, the bank is authorized to pay such check without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in drawing such check, or with knowledge of such facts that its action in paying the check amounts to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the check. [L. 1945, c. 197, s. 8.]

[Sec. 8445.09.] Section 9. **Deposit in fiduciary's personal account.** If a fiduciary makes a deposit in a bank to his personal credit of checks drawn by him upon an account in his own name as fiduciary, or of checks payable to him as fiduciary, or of checks drawn by him upon an account in the name of his principal if he is empowered to draw checks thereon, or of checks payable to his principal and indorsed by him, if he is empowered to indorse such checks, or if he otherwise makes a deposit of funds held by him as fiduciary, the bank receiving such deposit is not bound to inquire whether the fiduciary is committing thereby a breach of his obligation as fiduciary; and the bank is authorized to pay the amount of the deposit or any part thereof upon the personal check of the fiduciary without being liable to the principal, unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in making such deposit or in drawing such check, or with knowledge of such facts that its action in receiving the deposit or paying the check amounts to bad faith. [L. 1945, c. 197, s. 9.]

[Sec. 8445.10] Section 10. **Deposit in names of two or more trustees.** When a deposit is made in a bank in the name of two or more persons as trustees and a check is drawn upon the trust account by any trustee or trustees authorized by the other trustee or trustees to draw checks upon the trust account, neither the payee nor other holder nor the bank is bound to inquire whether it is a breach of trust to authorize such trustee or trustees to draw checks upon the trust account, and is not liable unless the circumstances be such that the action of the payee or other holder or the bank amounts to bad faith. [L. 1945, c. 197, s. 10.]

[Sec. 8445.11] Section 11. **Act not retroactive.** The provisions of this Act shall not apply to transactions taking place prior to the time when it takes effect. [L. 1945, c. 197, s. 11.]

[Sec. 8445.12.] Section 12. **Cases not provided for in Act.** In any case not provided for in this Act the rules of law and equity, including the law merchant and those rules of law and equity relating to trusts, agency, negotiable instruments and banking, shall continue to apply. [L. 1945, c. 197, s. 12.]

[Sec. 8445.13.] Section 13. **Uniformity of interpretation.** This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. [L. 1945, c. 197, s. 13.]

[Sec. 8445.14.] Section 14. **Short title.** This Act may be cited as the Uniform Fiduciaries Act. [L. 1945, c. 197, s. 14.]

Section 15. **Inconsistent laws repealed.** All acts or parts of acts inconsistent with this Act are hereby repealed.

Section 16. **Time of taking effect.** This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 313, Act 197.

Chapter 161. INSURANCE.

Series C-149: ACT 240

An Act Relating to the Business of Insurance,
Amending the Insurance Laws of the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 161 of the Revised Laws of Hawaii 1945, is hereby amended in the following respects:

(1) By amending section 8460 thereof to read as follows:

"Sec. 8460. **Fees.** The commissioner shall require payment in advance of the following fees:

| | |
|---|---------|
| Filing all applications required to be filed by this chapter | \$ 1.00 |
| Filing charter, articles of association or other controlling instrument | 25.00 |
| Filing any amendments to above | 5.00 |
| Filing resolution consenting to service of process upon commissioner | 1.00 |
| Filing name and address of resident agent authorized to accept process | 1.00 |
| Filing annual convention form | 10.00 |

| | |
|---|-------|
| Filing certificate of compliance | 10.00 |
| Filing surety bond | 1.00 |
| Depositing securities or filing certificate of deposit of securities | 10.00 |
| Filing power of attorney authorizing appointment of subagents and solicitors | 1.00 |
| Issuing certificate of authority | 10.00 |
| Issuing renewal certificate of authority | 10.00 |
| Filing annual statement of business transacted in the Territory | 10.00 |
| Each general agent's license for each company rep- resented | 2.00 |
| Each subagent's license issued or renewed | 2.00 |
| Each solicitor's license issued or renewed | 2.00 |
| Furnishing copies of papers filed in the office, per folio | .25 |
| Certifying copies, each | 1.00 |

All moneys collected under this section shall be deposited by the treasurer of the Territory in the general fund." [L. 1917, c. 115, s. 58; am. L. 1919, c. 100, s. 5; R. L. 1935, s. 6849; am. L. 1939, c. 263, s. 1(w); R. L. 1945, s. 8460; am. L. 1945, c. 240, s. 1(1).]

(2) By amending section 8487 in the following respects:

(a) By deleting the words "less return premiums and reinsurance in companies authorized to do business in the Territory when the reinsurance is placed through or with local agents;" appearing in the 14th, 15th and 16th lines of said section, and substituting in lieu thereof the following: "less return premiums (but not including dividends paid or credited to policyholders), and less any reinsurance (the tax upon such business being payable by the direct writing company);"

(b) By deleting the words "and reinsurance in companies authorized to do business in the Territory when the reinsurance is placed through or with local agents," appearing in the 21st and 22nd lines of said section, and substituting in lieu thereof the following: "and reinsurance (the tax upon such business being payable by the direct writing company)."

Note: As so amended, § 8487 reads:

"Sec. 8487. Annual tax statement; taxes, penalty. All insurance companies doing business in the Territory must file with the commissioner annually, on or before the 15th day of April in each year, a statement signed by some duly authorized person in its behalf under the penalties provided by section 5134, setting forth the total business transacted and the amount of gross premiums received by the companies, during the year ending December 31 next preceding from all risks located in, and all business done within

the Territory. The term "gross premiums" as used in this section shall not include consideration paid for annuities.

All insurance companies, except life insurance companies, shall pay to the treasurer, through the insurance commissioner, a tax of two and one-half per centum on the gross premiums received from all risks located in, and from all business done within, the Territory, during the year ending on the preceding 31st day of December, less return premiums (but not including dividends paid or credited to policyholders), and less any reinsurance (the tax upon such business being payable by the direct writing company); and all life insurance companies shall pay to the treasurer, through the insurance commissioner, a tax of two and one-fourth per centum on the gross premiums received from all business done within the Territory, during the year ending on the preceding 31st day of December, less return premiums, cash surrender values paid, dividends paid or credited to policyholders and reinsurance (the tax upon such business being payable by the direct writing company), which taxes when paid shall be in settlement of all demands for taxes, licenses or fees of every character imposed by the laws of the Territory, excepting property taxes, and the fees set forth in section 8460 for conducting the business of insurance in the Territory. Such taxes shall be due and payable on the 30th day of June, succeeding the filing of the statement provided for in this section. Any organization failing or refusing to render said statement and to pay the required taxes above stated, for more than thirty days after the time so specified, shall be liable to a penalty of twenty-five dollars for each day of delinquency, and the taxes may be collected by distraint, and the penalty recovered by an action to be instituted by the commissioner in the name of the Territory, in any court of competent jurisdiction, and the commissioner may suspend the certificate of authority of the delinquent organization until the taxes and fine, should any be imposed, are fully paid. [L. 1917, c. 115, s. 59; R. L. 1925, s. 3473; am. L. 1932, 2d, c. 46, s. 1; R. L. 1935, s. 6850; am. L. 1939, c. 263, s. 1 (x); am. L. 1943, c. 4; R. L. 1945, s. 8487; am. L. 1945, c. 240, s. 1 (2).]

[Surplus lines, see R. L. 1945, s. 8511.]

(3) By adding a new section thereto, to be numbered 8490.01, and to read as follows:

"Sec. 8490.01. Restrictions on the powers of insurance of domestic companies. Subject to the exceptions herein set forth, no domestic company shall enter into a contract of insurance upon the life or person of a resident of, or property or operations located in, a reciprocal state unless it has qualified itself for the doing of business in that state and is authorized pursuant to the laws of that state to transact such insurance therein.

The exceptions to the provisions of this section are the following:

(a) Contracts entered into where the prospective insured is present in the Territory of Hawaii, or is present in a state in which the domestic insurance company is qualified and authorized to transact insurance, when signing the application.

(b) Contracts of reinsurance.

(c) The issuance of certificates under a lawfully transacted group life or group disability policy, where the master policy was entered into in the Territory of Hawaii or in a state in which the domestic insurance company was then qualified and authorized to transact insurance.

(d) The renewal or continuance in force, with or without modification, of insurance contracts otherwise lawful and which were not originally executed in violation of this section.

As used in this section, the term "reciprocal state" means a state the laws of which prohibit an insurer domiciled therein from insuring the lives or persons of residents of, or property or operations located in, the Territory of Hawaii unless it then holds a valid and subsisting certificate of authority issued by the insurance commissioner of the Territory of Hawaii. The prohibition in said laws may be subject to the exceptions hereinabove set forth. The insurance commissioner, upon the application of any domestic insurance company, shall inform the said company whether or not any particular state is a reciprocal state.

As used in this section, the term "state" means and includes any state, territory (the Territory of Hawaii excluded) or insular possession of the United States, the District of Columbia, and the Commonwealth of the Philippines." [L. 1945, c. 240, s. 1(3).]

(4) By amending subparagraph (3) of section 8504 to read as follows:

"(3) That pending examination as herein provided or qualification in accordance with the provisions of subsection (4) of this section, the commissioner may issue a temporary license to an applicant to act as a general agent, subagent or solicitor, effective for a period not extending beyond ten days after the results of the next succeeding examination are announced, if such applicant be otherwise qualified and be certified by an official, or licensed representative, of a company. No further temporary license shall be issued to any person failing to pass the next succeeding examination or failing to so qualify."

Note: As so amended, § 8504 reads:

"Sec. 8504. Agent's or solicitor's license; application, examination, restrictions. Each applicant for a general agent's, subagent's, or solicitor's license shall be required to file but one application, regardless of the number of companies he is to represent; provided:

(1) That no applicant, successful in the examination hereinafter prescribed or otherwise qualified under the provisions of this chapter, shall act as general agent, subagent or solicitor, unless and until such license or the temporary license herein provided shall be issued to the applicant. A general agent's license shall be issued only at the request of an insurance company authorized to do business in the Territory and which has paid the

general agent's license fee required by law. A subagent's license shall be issued only at the request of a general agent authorized to do business in the Territory and which has paid the subagent's license fee required by law. A solicitor's license shall be issued only at the request of a general agent or of a subagent to be represented, who is licensed and has paid the solicitor's license fee required by law.

(2) That no solicitor shall be licensed to represent more than one general agent or one subagent for the writing of the same lines of insurance; **provided** that no solicitor shall represent more than a total of two general agents; **provided** further that the provisions of this subparagraph shall not apply to any person who holds a license as agent under the laws of the Territory on May 19, 1939.

(3) That pending examination as herein provided or qualification in accordance with the provisions of subsection (4) of this section, the commissioner may issue a temporary license to an applicant to act as a general agent, subagent or solicitor, effective for a period not extending beyond ten days after the results of the next succeeding examination are announced, if such applicant be otherwise qualified and be certified by an official, or licensed representative, of a company. No further temporary license shall be issued to any person failing to pass the next succeeding examination or failing to so qualify.

(4) That in lieu of the examination provided for in section 8506, an applicant for a license as general agent, subagent or solicitor of an insurance company may be certified by an official or licensed representative of such company as having completed and been satisfactorily examined upon a course of study required by the company of its licensed agents or as having completed and been satisfactorily examined upon a duly recognized course of study approved by the commissioner; **provided**, that a license shall not be issued to such applicant unless and until a copy of his examination papers, duly certified by such official or licensed representative has been filed with the commissioner and the character and results of such examination found satisfactory by him. In case he shall disapprove of such examination or the results thereof, he may require such applicant to take the examination prescribed in section 8506. [L. 1939, c. 263, pt. of s. 1 (1); am. L. 1941, c. 156, ss. 2, 3; R. L. 1945, s. 8504; am. L. 1945, c. 240, s. 1 (4).]

(5) By amending the second paragraph of section 8506 to read as follows:

"All examinations provided for by this section shall be conducted under the procedure prescribed from time to time by the commissioner. The commissioner may appoint an examiner or examiners for the purposes of any examination. In addition to such special examinations as the commissioner may order, four examinations shall be held each year at such times during the first half of February, May, August and November, and at such places, as may be designated by the commissioner, notice of which shall be published in English in a Honolulu daily newspaper of general circulation in the Territory at least twenty days prior to the examination; **provided**, in lieu of published notice, the commissioner may give written notice by registered letter mailed to each applicant at least twenty days

prior to the examination. Printed copies of a manual of questions pertaining to the examination, published under the direction of the commissioner, shall be made available to all companies, general agents or subagents for use of their prospective applicants in preparing for the examination. The questions to be asked shall be based upon the questions contained in the manual. Success in passing the examination shall be determined by the commissioner or by the examiners appointed by him.

Note: As so amended, § 8506 reads:

"Sec. 8506. Examination. If the applicant has not, prior to the date of application for license, been licensed in the Territory for at least one year as a general agent, subagent or solicitor, either individually or as a member or officer of a firm or corporation holding a license, the commissioner shall, except as provided in section 8504 (3), require such applicant, if a person, and one or more members or officers designated by it if a firm or corporation, to submit to a written examination covering all the kinds of insurance or contracts which the license, if granted, will permit the applicant to offer. Each application for license calling for an examination as in this section prescribed, must be accompanied by an examination fee of five dollars, which fee shall pay for all examinations conducted during a period of one year.

All examinations provided for by this section shall be conducted under the procedure prescribed from time to time by the commissioner. The commissioner may appoint an examiner or examiners for the purposes of any examination. In addition to such special examinations as the commissioner may order, four examinations shall be held each year at such times during the first half of February, May, August and November, and at such places, as may be designated by the commissioner, notice of which shall be published in English in a Honolulu daily newspaper of general circulation in the Territory at least twenty days prior to the examination; provided, in lieu of published notice, the commissioner may give written notice by registered letter mailed to each applicant at least twenty days prior to the examination. Printed copies of a manual of questions pertaining to the examination, published under the direction of the commissioner, shall be made available to all companies, general agents or subagents for use of their prospective applicants in preparing for the examination. The questions to be asked shall be based upon the questions contained in the manual. Success in passing the examination shall be determined by the commissioner or by the examiners appointed by him.

All examination fees collected by the commissioner shall be general territorial realizations. [L. 1939, c. 263, pt. of s. 1 (1); R. L. 1945, s. 8506; am. 1945, c. 240, s. 1 (5).]"

(6) By amending subsection 1 of section 8514 to read as follows:

"1. **New York form.** The standard fire insurance policy of the State of New York, as authorized and in effect in the State of New York, on December 31, 1943, is established as the standard form of fire insurance policy for the Territory, and no fire insurance policy shall be issued in the Territory in any other than the aforesaid form with such additions as are allowed by the terms of this chapter; **provided**, that nothing herein shall affect the validity of any policy otherwise valid or of any claim thereunder against an insurance company; **provided further**, that this subsection shall not refer to or include policies written upon automobiles."

[Sec. 8533.01, added by Act 166, C-150, post.]

(7) By amending subparagraph (3) of section 8541 to read as follows:

"3. **Scope of contract; incontestability.** A provision that the policy shall constitute the entire contract between the parties and shall be incontestable after it has been in force during the life time of the insured for a period of two years from its date, except for non-payment of premiums and except for violations of the conditions of the policy relating to naval or military service; that all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties; and that no such statement or statements shall be used in defense of a claim under the policy unless contained in a written application and unless a copy of the statement or statements be endorsed upon or attached to the policy when issued."

(8) By amending section 8545 by adding a new paragraph at the end thereof to read as follows:

"When the terms of any life or endowment policy or annuity contract require that the proceeds thereof be retained by the company upon the death of the insured, or other maturity of the policy or contract, for payment to any beneficiary other than the insured in accordance with a settlement plan selected by the insured, such beneficiary shall have no right or power, and he shall not be permitted by any company, to commute, encumber, assign or otherwise anticipate his interests under the plan if such right or power is expressly denied him by the terms of the contract or policy. If such beneficiary under the settlement plan is or was the wife or husband of the insured, or a child, parent or other person dependent upon the insured, his interests thereunder, in any case and irrespective of whether or not the contract or policy permits or denies him the right or power to commute, encumber, alienate, assign or otherwise

anticipate, shall be exempt from execution, attachment, garnishment or other process for his debts or liabilities incurred after the effective date of this Act." [L. 1917, c. 115, s. 39; R. L. 1935, s. 6829; am. L. 1939, c. 263, s. 1(v); R. L. 1945, s. 8545; am. L. 1945, c. 240, s. 1(8).]

Section 2. This Act shall take effect July 1, 1945.

(Approved May 19, 1945.) S.B. 368, Act 240.

[See s. 5559, life insurance exempt from taxes, when?]

Note: The preceding portion of § 8545, to which the above amendment is appended reads:

"Sec. 8545. Proceeds of insurance policy exempt from execution, etc., exceptions. All proceeds payable because of the death of the insured and the aggregate net cash value of any or all life and endowment policies and annuity contracts payable to a wife or husband of the insured, or to a child, parent or other person dependent upon the insured, whether the power to change the beneficiary is reserved to the insured or not, and whether the insured or his estate is a contingent beneficiary or not, shall be exempt from execution, attachment, garnishment or other process, for the debts or liabilities of the insured incurred subsequent to May 19, 1939, except as to premiums paid in fraud of creditors within the period limited by law for the recovery thereof."

Series C-150: ACT 166

An Act Requiring the Submission to the Fire Marshal of Plans and Specifications for the Construction or Alteration of Certain Buildings, Including Additions Thereto, and Providing for His Approval Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 161 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section, to be numbered 8533.01, and to read as follows:

"Sec. 8533.01. Submission of building plans for approval. Before work commences upon the construction of any building of the types hereinafter enumerated, or upon an alteration or addition to any such building, the plans and specifications for the work shall be submitted to the fire marshal. Neither the person causing the construction, alteration or addition to be made, nor his architect or agent, shall authorize, order or permit the work thereon to commence, and no contractor, builder or other person shall commence such work, prior to approval of the plans and specifications by the fire marshal.

The foregoing provisions shall be applicable to buildings the whole or any part of which are being, or intended to be, used as:

(a) Hospitals, sanitariums, asylums, children's nurseries, and other such institutions;

(b) Hotels, apartment houses, rooming houses and tenement houses; **provided** that, when any such building to be constructed or upon which alterations or additions are to be made, is only one story high, with living accommodations permanently designed and intended for less than twenty-five persons, the provisions of this section shall not apply;

(c) Schools, churches, auditoriums, halls, gymnasiums, dance halls, night clubs, factories, office buildings, stores, and all other such buildings where persons work, congregate or assemble; **provided** that, when any such building to be constructed, or upon which alterations or additions are to be made, is only one story high, and is permanently designed and intended for a total accommodation at any one time of less than one hundred persons, the provisions of this section shall not apply.

The provisions of this section shall be applicable to the Territory and the counties and other municipal subdivisions, and their officers, as well as to private persons. However, the said provisions shall not be applicable in any case where a law or ordinance requires that the plans and specifications be submitted for approval to the chief of the county fire department, if the said plans and specifications are actually so submitted and approved by him.

The fire marshal shall approve or disapprove of plans and specifications within ten days after the receipt of same; otherwise, the plans and specifications shall be deemed to be approved. Whenever the fire marshal shall find that the building to be constructed, or upon which alterations and additions are to be made, is for any reason not reasonably safe from loss or damage to property or loss of life or injury to persons by fire, he shall disapprove the plans and specifications, and return them with a written statement setting forth the reasons for his action." [L. 1945, c. 166, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved May 14, 1945.) H.B. 720, Act 166.

[Chapter 163. PARTNERSHIPS, see Act 63, D-181, embezzlement by partner.]

Title 22. GENERAL BUSINESS LAW.

Chapter 169. LIENS.

Series C-151: ACT 188

An Act Providing for Liens on Personal Property for Laundering, Cleaning, Dyeing and Pressing Charges, and Providing for Procedure for Foreclosure Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 8767.01.] Section 1. [Lien for laundering, cleaning, dyeing, pressing.] Every person to whom there has been or shall be delivered any article or lot of articles of wearing apparel or of household use for the purpose of laundering, cleaning, dyeing or pressing thereof by such person, regardless of the process to be employed, shall have a lien thereon for the amount of all charges incurred for the laundering, cleaning, dyeing or pressing thereof. Such lien shall be prior to all other rights in or to the article or lot of articles of which the holder of the lien is without actual knowledge at the time of delivery thereof to the holder of the lien or at the time of the approval of this Act, whichever is the later. [L. 1945, c. 188, s. 1.]

[Sec. 8767.02.] Section 2. [Enforcement; notice; auction.] In the event that any lien shall have attached to any such article or lot of articles and shall remain unsatisfied for a period of at least ninety days, such article or lot of articles may be sold in the manner herein provided. All articles received in one lot may be sold as one lot or as separate articles. Any number of articles or lots of articles may be included in the same notice. Notice of the time and place of sale shall be published in a newspaper of general circulation in the county or city and county where the articles or lots of articles to be sold shall have been delivered for laundering, cleaning, dyeing or pressing, not less than five nor more than ten days prior to the date of sale. The notice shall state the name of each person who delivered an article or lot of articles to be sold, if known, and shall state the amount of lien to be satisfied with respect to the article or lot of articles delivered by said person. As to the nature of the articles or lots of articles to be sold, the notice need merely state, in general terms, with reference to said articles or lots of articles collectively, that they are articles or lots of articles left for the purpose of laundering, cleaning, dyeing or pressing. At the time and place named in the publication each article or lot of articles may be sold at auction and the purchaser shall succeed to the owner's title thereto. Such auction may be con-

ducted by the holder of the lien or any person designated by him, and may take place upon the premises of the holder of the lien or such other premises as may be designated by him. Any person, including the holder of the lien, shall be entitled to bid for and purchase any article or lot of articles offered for sale at such auction. The provisions of sections 7018 to 7020, inclusive, and sections 7022 to 7032, inclusive, of the Revised Laws of Hawaii 1945, shall not apply to any auction conducted pursuant to this section. [L. 1945, c. 188, s. 2.]

[Sec. 8767.03.] Section 3. [Application of proceeds of sale; escheat when.] Out of the proceeds of sale the holder of the lien may retain the amount of the lien, plus in addition twenty-five per cent thereof to cover expenses incurred in connection with the storage, handling and sale of the article or lot of articles sold. Any balance remaining of the sale price of each article or lot of articles sold which shall not be claimed by the owner thereof within thirty days from the date of sale shall be deposited with the treasurer of the Territory and shall be payable to the owner thereof if claimed within one year from the date of sale. If no claim shall be made for said balance within said period, the sum shall become a government realization. [L. 1945, c. 188, s. 3.]

[Sec. 8767.04.] Section 4. [Redemption prior to sale.] After publication of notice of the time and place of sale of an article or lot of articles pursuant to section 2 hereof, and prior to the sale thereof, the article or lot of articles may be redeemed and the lien thereon satisfied only by payment of the amount of all charges incurred for the laundering, cleaning, dyeing or pressing thereof, plus in addition twenty-five per cent of the amount of said charges to cover all expenses incurred with respect to the article or lot of articles. [L. 1945, c. 188, s. 4.]

Section 5. This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 183, Act 188.

Chapter 180. TRADE REGULATIONS.

Series C-152: ACT 214

An Act to Prevent Fraud and Misrepresentation in the Sale at Retail of Goods Purporting to be Sold by or Manufactured for the Government of the United States, Establishing Standards of Fair Trade Practice Therein, and Providing for Penalties and Injunction for the Violation Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 9308.01.] Section 1. **Findings and declaration of public policy.** The legislature of the Territory of Hawaii finds that the sale and distribution at retail of goods manufactured by or for or sold by the government of the United States, or any agency or department thereof, is peculiarly susceptible to fraud and misrepresentation. The public interest requires that goods offered for sale in connection with representations of any form in which the government of the United States or any agency or department thereof is involved should be accurately identified and correctly described. The commingling of goods in such a way as might create a misapprehension on the part of any purchaser that he is buying goods sold by the government of the United States or any agency or department thereof, or that such goods were manufactured pursuant to government specifications, or that such goods in fact are at the time of sale in accordance with such specifications, or that such goods are new or in perfect condition, when not true in fact, is hereby declared inimical to public interest and an unfair trade practice. [L. 1945, c. 214, s. 1.]

[Sec. 9308.02.] Section 2. **[Unauthorized use of certain trade names prohibited.]** No person shall use any trade name which includes the word "Army," "Navy," "Marine," "Coast Guard," "Government," "G. I.," or any other term which denotes an agency or department of the government of the United States, without being lawfully authorized so to do by the government of the United States or an agency or agencies thereof. [L. 1945, c. 214, s. 2.]

[Sec. 9308.03.] Section 3. **[Fraudulent representation of origin of goods.]** No person shall sell or offer for sale at retail any goods incorrectly purporting to be manufactured by or for or sold by the government of the United States. [L. 1945, c. 214, s. 3.]

[Sec. 9308.04.] Section 4. **[Advertising or display requirements.]** Any person who represents by sign, window display, label, advertising, or any other means that it sells goods sold

by or manufactured for the government of the United States or any agency or department thereof shall, with equal prominence and in the same manner, make known by appropriate descriptive term the merchandising class of such goods. Without prejudice to the generality of the foregoing, such person shall use the terms "Used," "Rejects," "Reclaimed," "Reconditioned," "Seconds," "Irregulars," "Damaged," or the like, where any such term may be applicable. [L. 1945, c. 214, s. 4.]

[Sec. 9308.05.] Section 5. [Additional display requirements.] Any person who represents by sign, window display, label, advertising, or by any other means, that it sells goods sold by or manufactured for the government of the United States or any agency or department thereof, and who also sells other goods, shall specifically distinguish the two classes of merchandise by individual label on each item of goods displayed for sale or by segregation into labeled bins, compartments, or areas. [L. 1945, c. 214, s. 5.]

[Sec. 9308.06.] Section 6. [Penalty.] Any person who sells goods in violation of the foregoing provision shall be guilty of a misdemeanor and shall be punished by fine not exceeding \$50.00, and each such sale shall constitute a separate offense. [L. 1945, c. 214, s. 6.]

[Sec. 9308.07.] Section 7. [Injunctions.] Any person violating or neglecting or failing in any particular to conform to or comply with any provisions of this Act may be enjoined by the circuit court of the Territory by mandatory or restraining order necessary or proper to effectuate the purposes of this Act in a suit brought by the attorney general in the name of the Territory or by any private person in his own name. [L. 1945, c. 214, s. 7.]

[Sec. 9308.08.] Section 8. ["Person"]. The word "person" as used herein shall have the meaning ascribed thereto by section 16 of the Reised Laws of Hawaii 1945. [L. 1945, c. 214, s. 8.]

Section 9. If any portion of this Act is held invalid, the remainder thereof shall remain in full force and effect and the legislature hereby declares it would have passed such remaining portions without the invalid portions thereof.

Section 10. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 207, Act 214.

[Note: See **Economic Poisons**, Act 60, A-24, p. 33; **Fish Dealers**, Act 24, A-28, p. 39; **Agricultural Marketing**, Act 252, A-29, p. 41; **Seeds**, Act 90, A-30, p. 47; **Flour Enrichment**, Act 101, A-45, p. 73; **Employment Relations**, Act 250, A-68, p. 104.]

PART D: COURTS, ETC.

Title 23. APPEAL AND ERROR.

Chapter 182. APPEALS: BONDS.

Series D-153: ACT 194

An Act to Amend Section 9503 of the Revised Laws of Hawaii 1945, Relating to Appeals from Decisions, Judgments, Orders or Decrees of Circuit Judges in Chambers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9503 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first paragraph thereof to read as follows:

"Sec. 9503. From circuit judges in chambers. Appeals shall be allowed from all decisions, judgments, orders or decrees of circuit judges in chambers, to the supreme court, except in cases in which the appellant is entitled to appeal to a jury, whenever the party appealing shall file notice of his appeal, and pay the costs accrued within ten days after the filing of the decision, judgment, order or decree appealed from; **provided,** however, that in any case in which the law allows an appeal from the decision, judgment, order or decree of a judge in chambers to be tried before a jury, the judge whose decision, judgment, order or decree is appealed from shall not preside at the trial of such appeal before a jury."

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1945.) **S.B. 281, Act 194.**

Note: The rest of § 9503 continues to read as follows:

"Appeals may be allowed upon like terms as to payment and deposit of costs, by the circuit judge in his discretion from decrees overruling demurrers or from interlocutory judgments, orders or decrees whenever the circuit judge may think the same advisable for the more speedy termination of litigation. The refusal of the circuit judge to allow an appeal from an interlocutory judgment, order or decree shall not be reviewable by any other court. [L. 1892, c. 57, s. 69; am. L. 1892, c. 109, s. 1; am. L. 1898, c. 40, s. 1; R. L. 1925, s. 2509; R. L. 1935, s. 3501; am. L. 1939, c. 18, s. 1; am. L. 1941, c. 122, s. 1; R. L. 1945, s. 9503; am. L. 1945, c. 194, s. 1.]"

[See Act 69, E-215, post, commercial rent control appeals.]

Title 24: COURTS: ATTORNEYS, JURORS.

Chapter 189. CIRCUIT COURTS.

Series D-154: ACT 142

m. S. L. 147, en.
-178, act 236

An Act Adding a Sixth Judge and Creating a Juvenile Court in the First Judicial Circuit; Providing for the Jurisdiction of the Juvenile Court and Division of Domestic Relations of Said First Circuit; Amending Other Laws to Conform Herewith; and Making an Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9633 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 9633. First circuit court judges. The circuit court of the first circuit shall consist of not more than six judges, who shall be styled as first, second, third, fourth, fifth and sixth judges. The judge of the circuit court styled sixth judge shall be judge of the juvenile court.

There may be one or more sessions of the court at the same time, and each session may be held by one but not more than one of the judges; the judgments, orders and proceedings of any session held by any one of the judges shall be as effective as if only one session were held at a time." [L. 1892, c. 57, pt. of s. 30; R. L. 1945, s. 9633; am. L. 1945, c. 142, s. 1.]

[See Act 69, E-215, appeals, commercial rent control.]

Section 2. Section 9655 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 9655. First circuit, juvenile court; division of domestic relations. Unless a case under any of the following headings shall be especially assigned to one of the other judges, the jurisdiction of all actions included in chapter 300, cases of bastardy, cases of contributing to the dependency or delinquency of children, and cases under section 11664, and jurisdiction over delinquent and dependent children and the legalization of the adoption of children, shall be exercised for the first circuit by the judge of the juvenile court.

In said circuit court there shall be a division of domestic relations, to be held by one of the circuit judges, thereunto assigned, who shall exercise jurisdiction in all cases of divorce, annulment of marriages, separation, separate maintenance, desertion and nonsupport of wife or children, guardianship of minors, including appointment, removal and investigation of

accounts, and all cases involving alimony, except such cases as shall be especially assigned to another judge.

This section shall not be a limitation upon the powers of the other circuit judges." [L. 1921, c. 183, s. 2; R. L. 1945, s. 9655; am. L. 1945, c. 142, s. 2.]

Section 3. Section 9656 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the first paragraph thereof.

Note: As so amended, § 9656 reads.

"Sec. 9656. Same; probation officers. Within the scope of their duties each of the probation officers shall have the powers and privileges of a police officer.

Any of the probation officers, if in his judgment public interest requires it, may call upon the attorney general, or other prosecuting officer, to present evidence he may produce in any divorce proceeding, in order to investigate the same, or for the preparation of evidence. Nothing in this section shall be deemed to limit the power of the circuit judges under section 12219. [L. 1921, c. 183, ss. 3, 4; R. L. 1925, ss. 2238, 2239; R. L. 1935, ss. 3634, 3635; R. L. 1945, s. 9656; am. L. 1945, c. 142, s. 3.]"

[See also R. L. 1945, § 12332.]

[Sec. 9658, amended by Act 178, D-155, post.]

Section 4. Section 9771 of the Revised Laws of Hawaii 1945, as amended by Act 35 of the Session Laws of 1945, is hereby further amended by deleting the words "division of domestic relations" and "court of domestic relations", wherever the same appear, and by inserting in lieu thereof in each such place the words "juvenile court".

[See Act 35, D-162, post.]

Section 5. Section 12267 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first three lines thereof to read as follows:

"Sec. 12267. Court having jurisdiction. The juvenile courts shall have exclusive jurisdiction of all cases coming within the provisions of section 12265;"

Note: As so amended, § 12267 reads:

"Sec. 12267. Court having jurisdiction. The juvenile courts shall have exclusive jurisdiction of all cases coming within the provisions of section 12265; provided that in the counties of Hawaii and Maui the several district magistrates shall have concurrent jurisdiction in their respective districts with the juvenile courts in their respective circuits; provided, further, that upon complaint made to any prosecuting officer of the commission of any offense coming within the provisions of section 12265, the district magistrate within whose district such offense is alleged to have been committed may issue his warrant, as provided in section 10770 for the arrest of the person accused of such offense, and, as provided in section 10774, commit the accused for trial. [L. 1925, c. 167, pt. of s. 1; am. L. 1929, c. 126, s. 1; R. L. 1935, s. 4517; am. L. 1943, c. 223, s. 1; R. L. 1945, s. 12267; am. L. 1945, c. 142, s. 5.]"

Section 6. Section 12322 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12322. Judges, jurisdiction. The circuit judges sitting in chambers and the circuit judge of the first circuit who is judge of the juvenile court shall have original jurisdiction in all cases under sections 12321 to 12329 inclusive, and the court held under said sections by any such judge of the second, third or fifth judicial circuit shall be termed the juvenile court; in the first circuit only the court held by the judge of the juvenile court shall be termed the juvenile court but the circuit judges sitting in chambers nevertheless shall have jurisdiction in such cases, subject to the provisions of section 9655. **Provided** that in the counties of Hawaii, Maui and Kalawao the several district magistrates shall have concurrent jurisdiction, in their respective districts, with the circuit judges of the circuits within which their districts are situated; and **provided** that the circuit judges of the first, second and third judicial circuits may entertain jurisdiction of any case disposed of by a district magistrate of the circuit, notwithstanding such disposition by such district magistrate. In case of the absence, inability or disqualification of the judge, any other circuit judge may act in his place by assignment of the chief justice of the supreme court." [L. 1909, c. 22, s. 2; am. L. 1943, c. 85, s. 1; R. L. 1945, s. 12322; am. L. 1945, c. 142, s. 6.]

[Note: In line 4, § 12322 above, original figures "12399" changed to "12329": obvious clerical error.]

Section 7. Section 12332 of the Revised Laws of Hawaii 1945 is hereby amended by striking from the fourth line the words "court of domestic relations" and inserting in lieu thereof "juvenile court".

Section 8. Wherever in any law or ordinance, including the general appropriation act for the biennium 1945-1947, the words "juvenile court", "judge of the juvenile court", "circuit judges sitting as juvenile courts", "court of domestic relations", "division of domestic relations", "judge of the division of domestic relations", or words of similar import appear, (a) such terms shall, in so far as the first circuit is concerned, in relation to the jurisdiction of the juvenile court in said circuit under section 9655 of the Revised Laws of Hawaii 1945 as amended by this Act, and in relation to the personnel and expenses of the present division of domestic relations (which are additional to the general court requirements), mean and refer to the sixth judge of the first judicial circuit and the court held by him; (b) in relation to the jurisdiction of the division of domestic relations, first circuit, under section 9655 of the Revised Laws of Hawaii 1945 as amended by this Act, such terms shall, in so far as the first circuit is concerned, refer to the division of domestic rela-

tions and to the judge assigned thereto, pursuant to the amendments made by this Act.

Section 9. All laws or parts of laws inconsistent with this Act are hereby amended to conform herewith.

Section 10. The personnel employed in the present division of domestic relations shall be continued in their positions by the judge of the juvenile court, subject to removal as provided by law.

Section 11. Until the sixth judge is appointed and qualifies, the fourth judge shall be the judge of the juvenile court.

Section 12. Until funds for the salary of the sixth judge are appropriated by the Congress of the United States, the salary of such judge shall be paid by the Territory at the rate now or hereafter provided for the judges of the circuit court, first circuit, and sufficient funds to pay said salary are hereby appropriated from the general fund of the Territory.

Section 13. This Act shall take effect July 1, 1945.

(Approved May 11, 1945.) H.B. 711, Act 142.

Series D-155: ACT 178

An Act to Amend Section 9658 of the Revised Laws of Hawaii 1945 Relating to Rent Control Appeals.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9658 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first paragraph thereof to read as follows:

"Sec. 9658. Rent control appeals. The orders or determinations of any administrator appointed or any commission, board or tribunal created to execute and administer the powers conferred by subsection 10 of section 6233 and subsection 4 of section 6521, shall be subject to judicial review as follows: Within twenty days from the date upon which any such order or determination shall become final and no administrative remedy for review thereof shall remain available any party aggrieved thereby may commence proceedings to obtain judicial review thereof by the circuit court of the judicial circuit in which said administrator, commission, board or tribunal is functioning, by filing in the court a petition for review of said order or determination. In any such court proceeding every part to the proceeding resulting in said order or determination, and said administrator, commission, board or tribunal, shall

be made a party respondent, and the circuit judge shall have power to grant a stay of any such order or determination, as he may determine to be equitable in the premises, upon such terms as he may prescribe. The petition for review need not be verified but shall state the grounds upon which such review is sought. The petition for review shall be served upon the parties respondent in such manner as may be prescribed by the court, and the procedure thereon shall be as prescribed by the court. The administrator, commission, board or tribunal, whose order or determination is sought to be reviewed, shall certify and file with the court a copy of the record of the case, in such form and including such matters as may be prescribed by the court, and shall appear in the proceedings before the court, by its counsel or other representative, and submit oral or written arguments to support its order or determination, together with such evidence as it may deem advisable."

Section 2. This Act shall take effect upon its approval.
(Approved May 15, 1945.) S.B. 198, Act 178.

Note: The rest of § 9658 reads:

"The hearing before the court shall be a hearing de novo, and each party shall have the right to introduce evidence, or the court may, of its own motion, require the taking of such evidence as the court may deem proper. The court shall determine all questions of fact and all questions of law involved in the appeal; provided that in all appeal cases in which a trial by jury is had the cause shall be submitted to the jury on questions of fact stated to them by the court pursuant to section 10127. The right of trial by jury shall be deemed to be waived unless claimed within ten days from the date the appeal is perfected.

The court may affirm or reverse such order or determination, and may modify such order or determination by partially affirming and partially reversing the same, but may not otherwise modify the same or enter a new or different order or determination. If the court shall reverse such order or determination it shall render its decision setting forth wherein such order or determination is erroneous, together with such rules of law, and such findings of fact by the court or the jury, as the case may be, as will enable a proper order or determination to be entered. Within ten days after the decision of the court has been entered the administrator, commission, board or tribunal shall report to the court a new order or determination consistent with the decision, which shall take effect and be final upon the expiration of five days thereafter, unless an objection thereto is filed with the court within such period. In the event of such objection, such order or determination, or such modified order or determination as may thereafter be reported to the court, shall take effect and be final when determined by the court to be consistent with its decision, and the court may require the reporting of modified orders or determinations, as may be necessary.

The court shall prescribe the procedure to be followed in the case of such appeals. [L. 1943, c. 102, pt. of s. 1; R. L. 1945, s. 9658; am. L. 1945, c. 178, s. 1.]

[See also, commercial rent control L. 1945, c. 69, E-215, post.]

Chapter 190. DISTRICT COURTS.

Series D-156: ACT 80

An Act Amending Sections 9671, 9675 and 9728 of the Revised Laws of Hawaii 1945, Relating to Powers, Duties and Qualifications of District Court Clerks and District Magistrates.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9671 of the Revised Laws of Hawaii 1945 is hereby amended by deleting therefrom the phrase "the district magistrate of North Hilo and Hamakua," appearing in lines 10 and 11 thereof.

Section 2. Section 9675 of the Revised Laws of Hawaii 1945 is hereby amended by adding a new paragraph thereto to read as follows:

"Any document requiring the signature of a district magistrate, in any cause or proceeding whatsoever in a district court, may be signed without, as well as within, the boundaries of the district in which such court is situated, excepting, however, without the Territory."

Note: As so amended, § 9675 reads:

"Sec. 9675. Powers; witness fees. The district magistrates shall have power to administer oaths, to perpetuate testimony under commissions issued to them from other courts, and to issue commissions for the perpetuation of testimony to be used in controversies pending before them, to grant continuances of proceedings before them, to subpoena and compel the attendance of witnesses within the circuit in which their respective districts are situated; to render final judgments, to alter any judgment within ten days following the date of its rendition for good cause shown by any party and after notice given to the opposite party, to enforce judgment and to punish contempts according to law; and to issue garnishee summons which shall be operative as to the garnishee throughout the judicial circuit in which the district court issuing the same is situated.

Witnesses duly subpoenaed from a district other than the district of the magistrate issuing the subpoena shall be allowed the same attendance and mileage fees allowed witnesses subpoenaed before the circuit courts.

Any document requiring the signature of a district magistrate, in any cause or proceeding whatsoever in a district court, may be signed without, as well as within, the boundaries of the district in which such court is situated, excepting, however, without the Territory. [L. 1892, c. 57, s. 12; R. L. 1925, s. 2275; am. L. 1925, c. 145, s. 1; R. L. 1935, s. 3764; am. L. 1935, cc. 23, 110, s. 1; am. L. 1937, c. 19, s. 1; R. L. 1945, s. 9675; am. L. 1945, c. 80, s. 2.]

[§ 9752, R. L. 1945, witness fees circuit courts; § 9827, am. Act 38, D-166, post.]

Section 3. Section 9728 of the Revised Laws of Hawaii 1945 is hereby amended by adding a new paragraph thereto to read as follows:

"Where one district magistrate is appointed for two districts, a clerk or clerks appointed for either such district shall serve as clerk or clerks for the other of such districts, and shall receive and accept in either district papers for filing in either of the district courts of said districts."

Section 4. This Act shall take effect upon its approval.
(Approved May 3, 1945.) H.B. 266, Act 80.

Chapter 191. ATTORNEYS, ETC.

Series D-157: ACT 226

An Act Relating to Qualifications of Attorneys; Amending Section 9701 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9701 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 9701. **Qualifications.** The supreme court shall have the power to examine, admit and reinstate as practitioners in the courts of record such persons of good moral character who are citizens of the United States of America, and are qualified under the Organic Act (an act to provide a government for the Territory of Hawaii), to vote in the Territory of Hawaii, and have taken the prescribed oath of office, as it may find qualified for that purpose; and the supreme court shall have the sole power to revoke or suspend the license of any such practitioners or to dismiss or suspend them from the roll of practitioners for malpractice, fraud, deceit or other gross misconduct." [C. C. 1859, s. 1065; am. L. 1921, c. 81, s. 1; R. L. 1935, s. 3603; am. L. 1937, c. 173, s. 1; R. L. 1945, s. 9701; am. L. 1945, c. 226, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) H.B. 410, Act 226.

[Sec. 9708, see Act 95, A-10, ante, master fees.]

[Sec. 9728, amended by Act 80, D-156, ante.]

Chapter 192. CLERKS, ETC.—BAILIFFS.

Series D-158: ACT 249

An Act to Amend Section 9734 of the Revised Laws of Hawaii 1945, Relating to Appointment; Duties; Compensation of Court Officers and Bailiffs and Special Court Officers, First Circuit.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9734 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 9734. Appointment; duties; compensation. The judges of the circuit court of the first judicial circuit are hereby empowered, subject to any existing civil service law or requirements, to appoint persons to be known as 'court officers and bailiffs' and 'special court officers', one of whom shall be designated as 'chief court officer and bailiff', and another as 'assistant chief court officer and bailiff', and who, subject to the direction and control of the respective judges, shall assign one or more of such court officers and bailiffs or special court officers to attend upon the trial of causes in any chambers or courtroom, to keep order in the courtroom and judiciary building, to serve notices and other process of the court as directed by any judge of the court; to summon jurors and, under the supervision of the respective courtroom clerks, to have custody over juries and perform any other duties in and around the court as shall be from time to time required of them by the presiding judges or by rule of court. They shall be in attendance during all sessions of the respective divisions of the court and perform other duties during business hours or during emergencies as may be required of them by the respective judges, absenting themselves only upon special permission from the judge presiding in the court of assignment or from the chief court officer and bailiff.

Their salaries shall be in conformity with such classification and compensation schedules as may be adopted by the Territory of Hawaii and shall be payable out of any funds made available for such purpose. They shall not be entitled to any fees for the service of process or for the performance of any other service, but where fees are chargeable by law for such services, such fees shall become and be a general governmental realization.

In the performance of their duties they shall have the general powers of a police officer including all of the authority, powers and duties as set forth in chapter 230 of the Revised Laws of

Hawaii 1945; provided, however, they shall not interfere with the work of the high sheriff, the sheriff of the city and county of Honolulu or their deputies in the service of any process for which fees are paid. Any appointee under this section who, at the time of such appointment, is a member of any pension or retirement fund provided by law shall continue as such member after such appointment with the same rights to prior and subsequent service credit as if he had remained in the service of the Territory or county in any former service. In the event any court officer and bailiff or special court officer is required to serve any notice or any process, he shall be entitled to reimbursement for reasonable actual expenses for transportation, to be paid out of circuit court expenses, in such sums as may be approved by a presiding judge of the court." [L. 1941, c. 332, s. 1; R. L. 1945, s. 9734; am. L. 1945, c. 249, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved May 19, 1945.) H.B. 626, Act 249.

Chapter 193. COSTS AND FEES.

Series D-159: ACT 57

An Act to Amend Section 9742 of the Revised Laws of Hawaii 1945, Relating to Accounting for Fees Imposed by Chapter 193 of Said Revised Laws.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9742 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 9742. Fees to be accounted for. Except as otherwise provided in section 1530, and except such fees as are intended to reimburse officers for actual expenditures made by them, all judges', clerks', high sheriffs' and sheriffs' fees provided for in this chapter and accruing from any action pending in a court of record shall be accounted for to the treasurer of the Territory, and such fees accruing from actions in the district courts shall be accounted for to the treasurer of the county concerned." [R. L. 1945, s. 9742; am. L. 1945, c. 57, s. 1.]

Section 2. This Act shall take effect on July 1, 1945.

(Approved April 28, 1945.) H.B. 323, Act 57.

Series D-160: ACT 55

An Act to Amend Section 9744 of the Revised Laws of Hawaii 1945, Relating to District Court Costs.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9744 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting at the end of the first paragraph thereof a new paragraph reading as follows:

"For the filing of any motion for an order of examination of a judgment debtor, or for the allowance of a writ of possession, one dollar."

Section 2. This Act shall take effect upon its approval.
(Approved April 28, 1945.) **H.B. 635, Act 55.**

Note: As so amended, § 9744 reads:

"Sec. 9744. Schedule. For all services of the district court, magistrate or clerk in any one cause, two dollars and fifty cents, including the issuance of summons, warrant, attachment or other process and supplementary proceedings, if any; entering of adjournment; administering any oath; issuing subpoena; filing any paper at the request of any party; rendering and entering up judgment; transcript or certificate of judgment; bond or other security drawn by the magistrate; noting an appeal and filing and making a return thereof; and entering any discontinuance.

For the filing of any motion for an order of examination of a judgment debtor, or for the allowance of a writ of possession, one dollar.

Assessment against plaintiff, when. Whenever the plaintiff in any civil action in the district court shall fail to sustain his action, and it shall appear to the magistrate that such action was brought unfairly, maliciously, or without adequate cause, the magistrate shall have authority to assess against the plaintiff, not only the costs of court, but also all reasonable and necessary expenses to which the defendant was put, including attorney's fees.

High sheriff's, sheriff's or police officer's fees: for serving any summons, warrant, attachment or other process, one dollar.

For every copy of an attachment and inventory of the property attached, served upon the defendant, one dollar and fifty cents.

For serving any execution, ten cents for every dollar collected up to fifty dollars, and five cents for every dollar over fifty dollars.

For serving subpoena, ten cents for each witness.

For every mile of travel, more than one, in serving any process, five cents; provided, however, that no such allowance shall be made where such serving officer uses a conveyance furnished him by the Territory, or any political or municipal subdivision thereof.

For taking care of any property seized under an attachment, his reasonable and necessary expenses; provided, however, that no caretaker or watchman shall be allowed in excess of three dollars for each twelve hours of service. [C. C. 1859, s. 1278; am. imp. L. 1903, c. 63, s. 1; am. L. 1919, c. 58, s. 1; am. L. 1923, c. 229, s. 1; R. L. 1925, s. 2541; am. L. 1933, c. 47, s. 1; R. L. 1935, s. 3790; am. L. 1935, c. 177, s. 1; R. L. 1945, s. 9744; am. L. 1945, c. 55.]"

Series D-161: ACT 94

An Act to Amend Section 9745 of the Revised Laws of Hawaii 1945, Relating to Costs, Circuit Courts and Circuit Judges in Chambers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9745 of the Revised Laws of Hawaii 1945 is hereby amended by adding to the subsection numbered 5, a new paragraph to be lettered (d) which shall read as follows:

"(d) For the certification under seal of a copy of any pleading or paper subsequent to the initial filing of such pleading or paper25".

Section 2. This Act shall take effect upon its approval.

(Approved May 7, 1945.) H.B. 578, Act 94.

[See § 458, amended by Act 248, A-11, ante.]

Chapter 194. EXPENSES AND SALARIES.

Series D-162: ACT 35

An Act Amending Section 9771 and Repealing Sections 9772, 9773, 9774, 9775 and 9776 of the Revised Laws of Hawaii 1945, Relating to Personnel and Expenses of Circuit Courts, and Providing for Transfer of Personnel and Property Required for Such Courts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9771 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 9771. Personnel and expenses of circuit courts. The Territory of Hawaii shall pay the expenses of the several circuit courts and the salaries of such officers and employees as may be required by such courts, including without prejudice to the generality of the foregoing expenses of such courts for dependent and delinquent children, and for institutions for their care. The judge or judges of the several circuit courts shall appoint such officers and employees as may be required by such courts and for which appropriations shall have been made by the legislature; **provided**, that the officers and employees of the [division of domestic relations,] * first circuit, including without

prejudice to the generality of the foregoing juvenile probation officers, truant officers, and personnel of the detention home, shall be appointed by the judge of the [court of domestic relations,]* under whose supervision the appropriations for such division shall be expended. With the exception of one clerk for each judge, such officers and employees shall be members of the civil service system of the Territory of Hawaii and shall be chosen in conformity with the provisions of part one of chapter two hereof. The compensation for and classification of the positions held by such persons shall be in accordance with the provisions of part one of chapter three hereof." [R. L. 1945, s. 9771; am. L. 1945, c. 35, s. 1.]

*[The bracketed phrases changed to "juvenile court" by Act 142, D-154, ante.]

Section 2. Sections 9772, 9773, 9774, 9775 and 9776 of the Revised Laws of Hawaii 1945 are hereby repealed.

[Sec. 9771.01.] Section 3. **Transition provisions.** (a) All employees of the several circuit courts employed in the service of such courts upon June 30, 1945 who have completed six months of satisfactory service are hereby given permanent appointments in the civil service system of the Territory without further examination. All other employees of said courts employed on June 30, 1945 are hereby given probationary appointment in the civil service system of the Territory, and upon completion of six months of satisfactory service shall receive permanent appointments in the civil service system of the Territory without further examination. **Provided** further, however, that this subsection shall not apply to one clerk for each judge designated by such judge as not a member of the civil service system.

• (b) The civil service commission, as the personnel classification board for the Territory, shall by rule or otherwise make appropriate provisions whereby the employees of the circuit courts employed on June 30, 1945 may be accorded as nearly as practicable the same treatment as if they had, on the effective date of this Act, been transferred from positions in the classified service of the Territory and immediately prior to such transfers had been receiving for such positions the rates of compensation actually received by them on June 30, 1945. No such employee shall suffer a reduction in his rate of compensation by reason of his being placed under part one of chapter three of the Revised Laws of Hawaii 1945. The increment date of each employee of such courts who was in service and entitled to an increment on January 1, 1945 shall not be changed by reason of his transfer to the territorial service, notwithstanding any other provision of law. All employees of the circuit courts employed

on June 30, 1945 shall be given credit for the vacation and sick leave already earned or accumulated by them, and the counties shall pay into the treasury of the Territory to the credit of the appropriations for the respective circuit courts the amounts of the credits for vacations (but not sick leaves) earned or accumulated at the rates of compensation as of June 30, 1945.

(c) Contributions of the government to the employees' retirement system for employees of such courts employed on June 30, 1945 shall be pro-rated between the counties and the Territory as of June 30, 1945.

(d) All land, buildings, fixtures, furniture, furnishings, libraries and supplies, in the use or custody of or under the control of the several circuit courts on June 30, 1945 shall continue in such use, custody and control, except such portion of the premises of the detention home, city and county of Honolulu, as with the approval of the judges of the circuit court, first circuit, shall be required by the board of supervisors of said city and county for other purposes.

Section 4. All laws inconsistent with section one hereof are hereby amended to conform thereto.

Section 5. This Act shall take effect on June 30, 1945.

(Approved April 24, 1945.) S.B. 286, Act 35.

[Truant officers changed to jurisdiction of department of public instruction, Act 156, A-36, ante.]

Chapter 195. JURORS.

[Sec. 9791, amended by Act 163, D-165, post.]

Series D-163: ACT 62

An Act Relating to the Fees of Jurors and Amending Sections 9797 and 9798 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9797 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 9797. Amount. The pay of jurors in courts of record shall be, for actual attendance at court, four dollars a day during such attendance, and twenty cents for each mile actually and necessarily traveled, in going only. Jurors residing ten miles or more from the court shall be paid four dollars for each day that they shall report in person to the clerk of the court, in addition to the mileage fees hereinabove provided. Jurors residing upon an island other than that upon which the court is holding session shall be paid six dollars for each day that they shall report in person to the clerk of the court, in addition to the mileage fees hereinabove provided." [R. L. 1945, s. 9797; am. L. 1945, c. 62, s. 1.]

Section 2. Section 9798 of said Revised Laws is hereby amended to read as follows:

"Sec. 9798. Certificate of. At the end of each month during the term of a circuit court and whenever jurors are excused as provided in section 9796, the clerk shall make a certificate to each juror entitled thereto, certifying the number of days the juror has attended court and the amount due to him per diem and for mileage. Each juror shall state on oath to the clerk the number of miles traveled for which he is entitled to pay. No person summoned as a juror who is excused at his own request shall receive any mileage." [R. L. 1945, s. 9798; am. L. 1945, c. 62, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved April 28, 1945.) H.B. 384, Act 62.

Series D-164: ACT 149

An Act to Amend Section 9800 of the Revised Laws of Hawaii 1945, Relating to Jury Lists.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9800 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the words "one hundred fifty trial jurors", in the seventh and eighth lines thereof, the words "two hundred fifty trial jurors".

Section 2. This Act shall first take effect for the purpose of making jury lists at the first term of court occurring ten days or more after its approval.

(Approved May 14, 1945.) S.B. 146, Act 149.

Series D-165: ACT 163

An Act Relating to Grand Jurors and Jurors.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 9800.01.] Section 1. [Limitation on selection.] No person shall be selected and listed as a grand juror who has been so selected and listed within one year; and no person shall be selected and listed as a trial juror who has been so selected and listed within one year. [L. 1945, c. 163, s. 1.]

Section 2. Amend subsection 1 of Section 9791 of the Revised Laws of Hawaii 1945 to read as follows:

"1. If he is a male citizen of the United States, and of the Territory, of the age of twenty-one years or over; possesses the qualifications for registration as a voter; has resided in the Territory of Hawaii for not less than three years; is a resident of the circuit from which he is selected; and"

Section 3. This Act shall take effect upon its approval, but shall apply as to section 1 hereof only to the selection and listing of grand jurors and jurors for any term of court subsequent to such approval.

(Approved May 14, 1945.) H.B. 402, Act 163.

Note: As so amended, § 9791 reads:

"Sec. 9791. Qualified when. A person is qualified to act as a juror or grand juror:

1. If he is a male citizen of the United States, and of the Territory, of the age of twenty-one years or over; possesses the qualifications for registration as a voter; has resided in the Territory of Hawaii for not less than three years; is a resident of the circuit from which he is selected; and

2. If he is in possession of his natural faculties and not decrepit; and

3. If he is intelligent, and of good character; and

4. If he can understandingly speak, read and write the English language; and

5. If he is selected, summoned, returned and sworn without reference to race, or place of nativity. [L. 1903, c. 38, s. 1; am. L. 1905, c. 74, s. 1; R. L. 1925, s. 2395; am. L. 1932, 1st, c. 18, s. 1; R. L. 1935, s. 3710; R. L. 1945, s. 9791; am. L. 1945, c. 163, s. 2.]"

[See Org. Act, § 83, jurors; challenging, etc., see R. L. 1945, §§ 9812, 10110 ff.]

Title 25. EVIDENCE.
Chapter 196. GENERALLY.

Series D-166: ACT 38

An Act Relating to the Fees of Witnesses and
Amending Section 9827 of the Revised Laws of Ha-
waii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9827 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 9827. Fees. Every witness legally required to attend upon a circuit court or a grand jury in any criminal case, other than a salaried county, city and county, or territorial official, shall be entitled to four dollars for each day's attendance and twenty cents for each mile actually and necessarily traveled, in going only. Any police officer or other public officer or employee (except the county attorney or public prosecutor or deputy county attorney or public prosecutor), who is called to attend as a witness and who resides in a district other than that in which the circuit court is holding session, shall be allowed witness and mileage fees as in this section provided. Every witness coming to attend upon court from any island other than that upon which the court is holding session shall be entitled to six dollars for each day's attendance in addition to the mileage fees hereinabove provided." [R. L. 1945, s. 9827; am. L. 1945, c. 38, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved April 24, 1945.) H.B. 172, Act 38.

[See § 9675, amended Act 80, D-156, ante.]

Series D-167: ACT 183

An Act Relating to the Examination of an
Adverse Party in Civil Actions.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 9847.02.] Section 1. Examination of a party to a civil action.] A party to the record in any civil action or proceeding or a person for whose immediate benefit such action or proceeding is prosecuted or defended, or the directors, officers, superintendent or managing agent of any corporation

which is a party to the record, may be examined by the adverse party as if under cross-examination, subject to the rules applicable to the examination of other witnesses. The party calling such adverse witness shall not be bound by his testimony, and the testimony given by such witness may be rebutted by the party calling him for such examination by other evidence. Such witness, when so called, may be examined by his own counsel, but only as to the matters testified to on such examination. [L. 1945, c. 183, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 15, 1945.) S.B. 282, Act 183.

Chapter 198. DOCUMENTARY EVIDENCE.

Series D-168: ACT 17

An Act to Amend Section 9883 of the Revised
Laws of Hawaii 1945 Relating to Facsimile Copies.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That Section 9883 of the Revised Laws of Hawaii 1945 be amended to read as follows:

"Sec. 9883. Facsimile copies. Where any writing whatsoever shall have been copied by means of any machine, press, photographic device or microphotographic equipment, which produces a facsimile impression or copy of such writing, such impression or copy shall, upon proof to the satisfaction of the court or person having by law or by consent of parties authority to hear, receive and examine evidence, that the same was taken or made from the original writing by means of such machine, press, photographic device or microphotographic equipment as aforesaid, be sufficient prima facie evidence of such writing without any proof that such impression or copy was compared with the original thereof, and without any notice to produce such original." [L. 1876, c. 32, s. 44; R. L. 1945, s. 9883; am. L. 1945, c. 17, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved April 13, 1945.) H.B. 250, Act 17.

Series D-169: ACT 195

An Act Relating to Judicial Notice of Ordinances.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9886 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto an additional paragraph which shall read as follows:

"A certified copy or copies of an ordinance or ordinances of any county may be filed by the clerk of such county with any court or magistrate and thereafter such court or magistrate may take judicial notice of said ordinance or ordinances and the contents thereof in any cause, without requiring such certified copy or copies to be filed or introduced as exhibits in such cause." [L. 1921, c. 232, s. 1; am. L. 1927, c. 165, s. 1; R. L. 1945, s. 9886; am. L. 1945, c. 195, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 297, Act 195.

[See also record of department of public instruction, § 1712; proof of rules § 473; archives, § 9890; proof of death of missing persons, Act 148, D-171, post.]

Note: The first part of § 9886 reads:

"Sec. 9886. Proof of ordinances, rules, regulations and other official acts. Whenever, in any proceedings before a judge, court, administrative officer, board, commission, quasi-judicial officer or other public officer, official, or body of whatsoever nature, it shall be necessary to prove any ordinance of any county of the Territory, or any law, rule, regulation, or other official act or thing promulgated or enacted by or under authority of the Constitution and laws of the United States of America, the Organic Act or the laws of the Territory, a copy of such ordinance, bearing the certificate, as to its correctness, of the county clerk and under the seal of such county, or a copy of such law, rule, regulation or other official act or thing, printed by authority, or bearing the certificate, as to its correctness, of the official in whose custody the original is kept, shall be admitted in evidence as prima facie proof of the contents thereof."

Series D-170: ACT 109

An Act to Amend Section 9890 of the Revised
Laws of Hawaii 1945 Relating to Certification of and
Fees for Copies of Records in the Public Archives.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9890 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 9890. Certificate to same. The secretary of the Territory, as chairman of the board of commissioners of public archives, or the commissioner of public archives in case the board is abolished, and the librarian or other officer performing the duties of librarian or custodian of the public archives, are severally authorized and empowered to certify, as true and correct, copies or reproductions of any of the books, documents, papers, writings or other records, or excerpts therefrom, in their custody. Fees shall be charged as follows:

For comparing any copy of any record privately made as to its correctness, five cents for each 100 words or fraction thereof;

For copying any record, sixty cents for each 100 words or fraction thereof;

For searching of a ship's manifest as to an arrival, seventy-five cents;

For each hour or fraction thereof, required in research or in transporting and safeguarding records required to be temporarily removed from the archives building for any purpose, and not covered hereinabove, one dollar;

For a photographic, photostatic or other similarly reproduced copy of any record, the cost thereof;

For the certification as to the correctness of any copy, twenty-five cents.

The above fees shall not be charged where the work involved is required by any department or branch of the federal, territorial or county governments." [L. 1909, c. 8, s. 2; R. L. 1945, s. 9890; am. L. 1945, c. 109, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) S.B. 342, Act 109.

[Note: See § 458, amended by Act 248, A-11, ante, fees for copies of public records.]

Series D-171: ACT 148

An Act to Provide for the Receiving as Prima Facie Evidence Official Findings, Records and Reports of Death, Presumed Death, Missing or Other Status Issued Pursuant to Federal Missing Persons Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 9897.01.] Section 1. [**Prima facie proof of death.**] A written finding of presumed death made by the secretary of war, the secretary of the navy, or other officer or employee of the United States authorized to make such finding, pursuant to the federal missing persons act (56 Stat. 143, 1092, and P. L. 408, ch. 371, 2d. sess. 78th Cong.; 50 U.S.C. App. Supp. 1001-17), as now or hereafter amended, or a duly certified copy of such finding, shall be received in any court, office or other place in the Territory as prima facie evidence of the death of the person therein found to be dead, and the date, circumstance and place of his disappearance. [L. 1945, c. 148, s. 1.]

[Sec. 9897.02.] Section 2. [**Official records of missing persons.**] An official written report or record, or duly certified copy thereof, that a person is missing, missing in action, interned in a neutral country, or beleaguered, besieged or captured by an enemy, or is dead, or is alive, made by any officer or employee of the United States authorized by the Act referred to in section 1 or by any other law of the United States to make the same, shall be received in any court, office or other place in the Territory as prima facie evidence that such person is missing, missing in action, interned in a neutral country, or beleaguered, besieged or captured by an enemy or is dead, or is alive, as the case may be. [L. 1945, c. 148, s. 2.]

[Sec. 9897.03.] Section 3. [**Authenticity of record.**] For the purposes of sections 1 and 2 of this Act any finding, report or record, or duly certified copy thereof, purporting to have been signed by such an officer or employee of the United States as is described in said sections shall prima facie be deemed to have been signed and issued by such an officer or employee pursuant to law, and the person signing the same shall prima facie be deemed to have acted within the scope of his authority. If a copy purports to have been certified by a person authorized by law to certify the same, such certified copy shall be prima facie evidence of his authority so to certify. [L. 1945, c. 148, s. 3.]

Section 4. If any provision of this Act or the application thereof to any person or circumstance be held invalid, such invalidity shall not affect any other provision or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 5. This Act shall take effect upon its approval.
(Approved May 14, 1945.) S.B. 92, Act 148.

[Compare § 12739, as amended by Act 53, D-208, post.]

Title 26. PLEADINGS AND PROCEDURE.
Chapter 202. DECLARATORY JUDGMENTS.

Series D-172: ACT 74

An Act to Amend Section 9971 of the Revised
Laws of Hawaii 1945, Relating to Declaratory Judg-
ments.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 9971 of the Revised Laws of Hawaii 1945 is hereby amended by adding a new paragraph thereto to read as follows:

"Relief by declaratory judgment or decree may be granted in all civil cases where an actual controversy exists between contending parties, or where the court is satisfied that antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation, or where in any such case the court is satisfied that a party asserts a legal relation, status, right or privilege in which he has a concrete interest and that there is a challenge or denial of such asserted relation, status, right, or privilege by an adversary party who also has or asserts a concrete interest therein, and the court is satisfied also that a declaratory judgment or decree will serve to terminate the uncertainty or controversy giving rise to the proceeding. Where, however, a statute provides a special form of remedy for a specific type of case, that statutory remedy must be followed; but the mere fact that an actual or threatened controversy is susceptible of relief through a general common law remedy, or an equitable remedy, or an extraordinary legal remedy, whether such remedy is recognized or regulated by statute or not, shall not debar a party from the

privilege of obtaining a declaratory judgment or decree in any case where the other essentials to such relief are present; but proceeding by declaratory judgment shall not be permitted in any case where a divorce or annulment of marriage is sought."

Section 2. This Act shall take effect upon its approval.
(Approved May 1, 1945.) H.B. 363, Act 74.

[Note: The first part of § 9971 reads:

"Sec. 9971. Jurisdiction; controversies subject to. In cases of actual controversy, courts of record, within the scope of their respective jurisdictions, shall have power to make binding adjudications of right, whether or not consequential relief is, or at the time could be, claimed, and no action or proceeding shall be open to objection on the ground that a judgment or order merely declaratory of right is prayed for. Controversies involving the interpretation of deeds, wills, other instruments of writing, statutes, municipal ordinances, and other governmental regulations, may be so determined, and this enumeration does not exclude other instances of actual antagonistic assertion and denial of right."]

Title 27. CIVIL REMEDIES AND DEFENSES.

Chapter 207. EXECUTION.

Series D-173: ACT 132

An Act to Add to the Revised Laws of Hawaii 1945 a New Section Relating to the Requirement of a Bond as a Condition to the Issuance of an Execution.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to the Revised Laws of Hawaii 1945 a new section, to be numbered section 10163.01, reading as follows:

"Sec. 10163.01. Bond for expenses on execution. Upon the petition of the high sheriff, any sheriff, deputy sheriff or other police officer to whom an execution has been directed, showing that the levy and sale required by such execution will involve unusual expense to such officer and that he may be unable to collect such expense from the proceeds of the sale or from the defendant, the judge of the court or the magistrate issuing such execution may upon a hearing of said petition direct the person beneficially interested in said execution to tender to such officer a cash or surety bond in an amount determined as proper by said judge or magistrate, conditioned that, if the levying officer is unable to collect his reasonable charges and expenses from

the proceeds of the property levied upon or from the defendant, the person beneficially interested in said execution will pay the same. Said petition shall be heard upon citation and order to show cause duly served upon such interested person. In the event such order is not complied with, such officer may decline to levy upon or sell the property of any person against whose property such execution has been issued." [L. 1945, c. 132, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 10, 1945.) H.B. 375, Act 132.

Chapter 216. LANDLORD AND TENANT.

[Commercial Rent Control, see Act 69, E-215, post.]

Series D-174: ACT 251

An Act Relating to Landlord and Tenant.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 10404.01.] Section 1. [Acceptance of rent during litigation, effect of.] Where any legal proceedings shall be brought by a landlord to evict a tenant whether by summary possession proceedings or in an action of ejectment or otherwise, the acceptance of rent by the landlord during such litigation shall not be construed as a recognition of the tenancy and shall be without prejudice to his legal rights at the inception of such proceedings.

In the event the eviction proceedings of whatever nature be successful any rent so paid shall be construed as damages for withholding the occupancy of the premises involved from the landlord. [L. 1945, c. 251, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 21, 1945.) S.B. 86, Act 251.

Series D-175: ACT 216

An Act to Amend Section 10406 of the Revised Laws of Hawaii 1945, Relating to Joinder of Causes of Action in Summary Possession Proceedings.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 10406 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 10406. Joinder of other causes of action. In any action for summary possession begun under the provisions of this chapter, the plaintiff may join actions for rent, lodging, board, profits, damages and waste, where these arise out of and refer to the land or premises, the possession of which is sought, and such joinder may be made irrespective of the amount claimed.

In any such action, whether the ground or cause be nonpayment of rent or otherwise, the plaintiff may join in such action a prayer for accrued rent due, if any, and also for rent, profits and damages up to the time of judgment, if such be rendered in his favor, without prejudice to such action or ground for summary possession as may be set forth in the complaint." [L. 1915, c. 171, s. 1; am. L. 1923, c. 93, s. 1; R. L. 1935, s. 4015; R. L. 1945, s. 10406; am. L. 1945, c. 216, s. 1.]

Section 2. This Act shall take effect upon approval and shall apply to all summary possession proceedings now pending as well as to those commenced in the future.

(Approved May 17, 1945.) S.B. 216, Act 216.

Series D-176: ACT 192

An Act to Amend Chapter 216 of the Revised Laws of Hawaii 1945, by Adding Thereto a New Section Relating to Appeals in Proceedings for Recovery of Possession of Premises.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 216 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section to be numbered 10414.01, and to read as follows:

"Sec. 10414.01. Frivolous appeals. If, upon an appeal by the defendant, the writ of possession shall be stayed, and upon the hearing of the cause on appeal, it shall appear that the appeal was frivolous or was taken for delay only, the court may award against the defendant the whole cost of the appeal proceedings, including a reasonable attorney's fee to be fixed by the court. The provisions of this paragraph may be considered by the magistrate or court in fixing the amount of any bond.

This section shall apply to any action for summary possession or other action or proceeding for or involving the recovery of the possession of premises after the termination of a tenancy.

As used in this section the term 'plaintiff' shall mean and include any party seeking recovery of possession of such premises; the term 'defendant' shall mean and include any party in possession of such premises who joins in the appeal; and the term 'appeal' shall mean and include any proceeding for review of the decision, judgment, order or decree of a district magistrate or other court." [L. 1945, c. 192, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 262, Act 192.

Chapter 217. LIMITATIONS OF ACTIONS.

Series D-177: ACT 174

An Act Relating to Limitation of Actions and
Creating a New Section of the Revised Laws of Ha-
waii 1945 to be Numbered Section 10429.01.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 217 of the Revised Laws of Hawaii 1945 is hereby amended by adding, immediately following section 10429, a new section to be numbered "Section 10429.01" to read as follows:

"Sec. 10429.01. [Recoveries authorized by federal statute.] Whenever any federal statute provides for an imposition of a civil penalty or liquidated damages or imposes a new liability or enlarges any existing liability and the statute does not specify the period within which suit to recover such penalty, liquidated damages or any sum arising out of any such new or enlarged liability may be brought, such suit, if brought in a territorial court, must be filed with the clerk of such court within one (1) year from the date the cause of action arises or be thereafter barred; provided, however, that with respect to existing causes of action for such penalty, liquidated damages or sum arising out of such new or enlarged liability which have not been barred as of the effective date of this Act, suit must be brought, if at all, within six (6) months from the date of the approval of this Act." [L. 1945, c. 174, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 15, 1945.) H.B. 719, Act 174.

[See Act 146, F-263, Annie Harris claim.]

Series D-178: ACT 210

An Act to Amend Chapter 217 of the Revised Laws of Hawaii 1945, Relating to Limitation of Actions, by Adding Sections 10429.02 and 10433.01 Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 217 of the Revised Laws of Hawaii 1945 is hereby amended in the following particulars:

(a) By adding section 10429.02 thereto, to read as follows:

"Sec. 10429.02. All other personal actions. All personal actions of any nature whatsoever not specifically covered by the laws of the Territory must be instituted within four years after the cause of action accrued, and not after". [L. 1945, c. 210, s. 1 (a).]

(b) By adding section 10433.01 thereto, to read as follows:

"Sec. 10433.01. Death no interruption. The running of the limitation period upon any personal action shall not be interrupted by the death of the person against whom the cause of action has accrued". [L. 1945, c. 210, s. 1 (b).]

Section 2. This Act shall take effect upon its approval, but no action shall be barred under the provisions of section 10429.02 of said Revised Laws as herein enacted for two years after its enactment.

(Approved May 17, 1945.) H.B. 496, Act 210.

[Sec. 10429.02, above, renumbered to avoid duplication with Act 174, D-177, under authority of J. R. 4, s. 2, post.]

Title 29. CRIMINAL PROCEDURE.

Chapter 233. CIRCUIT COURTS.

Series D-179: ACT 67

An Act Providing for Additional Penalties for
Felonies in Certain Instances.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 10847.01.] Section 1. [Fines in felony cases.] Upon any conviction for a felony, (a) where either no fine, or a maximum fine of less than one thousand dollars, is provided therefor by law, the court may impose a fine of not more than one thousand dollars, in addition to any imprisonment authorized by law for such offense, and (b) where a fine or imprisonment in the alternative is provided therefor by law, the court may impose both such fine and imprisonment. [L. 1945, c. 67, s. 1.]

Section 2. This Act shall take effect upon its approval, but shall not apply to any offense heretofore committed. Any such prior offense shall be punishable in the same manner and to the same extent as if this Act had not been enacted.

(Approved April 28, 1945.) H.B. 619, Act 67.

Chapter 234. FINES AND COSTS.

Series D-180: ACT 111

An Act to Amend Chapter 234 of the Revised
Laws of Hawaii 1945, Relating to Fines and Costs.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 234 of the Revised Laws of Hawaii 1945 is hereby amended:

- (a) by repealing sections 10876 and 10877 thereof, and
- (b) by amending section 10878 thereof to read as follows:

"Sec. 10878. Circuit court fines, costs, etc.; disposition. All moneys paid as fines, costs, or forfeited bail in circuit court cases shall be paid into the treasury of the Territory of Hawaii." [L. 1911, c. 104, s. 1; R. L. 1945, s. 10878; am. L. 1945, c. 111, s. 1.]

Section 2. This Act shall take effect on July 1, 1945.

(Approved May 8, 1945.) H.B. 281, Act 111.

Title 30. CRIMES.

Chapter 255. EMBEZZLEMENT.

Series D-181: ACT 63

An Act to Amend Chapter 255 of the Revised Laws of Hawaii 1945, Relating to Embezzlement by Adding Section 11240.01 Thereto Relating to Embezzlement by a Partner or Co-Owner and Providing Penalties Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 255 of the Revised Laws of Hawaii 1945 is hereby amended by adding section 11240.01 thereto to read as follows:

"Sec. 11240.01. Embezzlement by a partner or co-owner. If any person who is entrusted with, or has possession, control, custody or keeping of a thing of value in which he has a part interest and other persons have a part interest, by the consent or authority, direct or indirect, of such other persons, and without the consent and against the will of such other persons, even though they be joint tenants, partners, or otherwise co-owners thereof, fraudulently secrete, withhold, convert or dispose of the same, to his own use and benefit or to the use and benefit of another than his said co-owner or co-owners entitled thereto, he is guilty of embezzlement, and shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than five years, or by both fine and imprisonment." [L. 1945, c. 63, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 28, 1945.) **H.B. 499, Act 63.**

Chapter 258. FALSE PERSONATION, ETC.

Series D-182: ACT 49

An Act Relating to the Making of False Reports of Crimes and Prescribing Penalties Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 11286.] Section 1. [False representation or report of crime; penalty.] Any person who wilfully or knowingly shall falsely represent to any police officer that he is the victim of a criminal act of another person, known or unknown, or who wilfully or knowingly shall make a false report of crime to any police officer, upon conviction shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars or by both such imprisonment and fine. [L. 1945, c. 49, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved April 27, 1945.) H.B. 517, Act 49.

Chapter 263. GROSS CHEAT.

Series D-183: ACT 39

An Act to Prohibit the Sale of Amusement Tickets for More than the Price Printed Thereon, Declaring the Same a Misdemeanor, and Fixing Penalties Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 11377.01.] Section 1. [Scalpers' sales of amusement tickets prohibited; penalty.] It shall be unlawful for any person to sell tickets for baseball or football games, wrestling or boxing matches, theatres or any other amusement, for a price more than the price printed upon the face of said ticket, and the price of said ticket shall correspond with the same price shown at the box office or the office of original distribution.

Section 2. Whoever violates any of the provisions of section 1 of this Act shall upon conviction thereof be punished by a fine not exceeding \$1,000.00 or by imprisonment not exceeding one year, or both such fine and imprisonment. Each sale in violation of this Act shall constitute a separate offense. [L. 1945, c. 39, ss. 1, 2.]

Section 3. This Act shall take effect upon its approval.
(Approved April 24, 1945.) H.B. 320, Act 39.

Chapter 273. PICKETING, ETC.

Series D-184: ACT 12

An Act to Repeal Sections 11520, 11521 and 11522 of the Revised Laws of Hawaii 1945, Relating to Picketing.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Sections 11520, 11521 and 11522 of the Revised Laws of Hawaii 1945 are hereby repealed.

Section 2. This Act shall take effect upon its approval.
(Approved April 9, 1945.) H.B. 155, Act 12.

Chapter 286. TRESPASS.

Series D-185: ACT 76

An Act to Amend Section 11751 of the Revised Laws of Hawaii 1945, Relating to Trespass and Punishment Therefor, by Providing that Entry upon Pathways over Government Lands Leading to Beaches Shall Not Constitute Trespass.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 11751 of the Revised Laws of Hawaii 1945 is hereby amended by changing the period at the end thereof to a semicolon and adding thereafter the following:

“provided, however, that entry upon or passing along or over established and well-defined roadways, pathways or trails leading to public beaches over government lands, whether or not under lease to private persons, shall not of itself constitute the offense of trespass, and anyone entering upon or passing along or over any such roadway, pathway or trail on his way to or from a public beach shall be liable only for such actual physical damage as he may cause in so doing.”

Section 2. This Act shall take effect upon its approval.
(Approved May 1, 1945.) H.B. 13, Act 76.

[Note: See next page for re-written § 11751.]

Note: As so amended, § 11751 reads:

"Sec. 11751. **Trespass, penalty.** Whoever, without right, enters or remains in or upon the dwelling house, buildings or improved or cultivated lands of another or the land of another about or near any buildings used for dwelling purposes, after having been forbidden to do so by the person who has lawful control of such premises, either directly or by notice posted thereon, and any person who wilfully tears down or defaces any such notice, shall be guilty of a misdemeanor and upon conviction shall be punished by fine of not more than two hundred fifty dollars or by imprisonment of not more than three months, or by both fine and imprisonment; provided, however, that entry upon or passing along or over established and well-defined roadways, pathways or trails leading to public beaches over government lands, whether or not under lease to private persons, shall not of itself constitute the offense of trespass, and anyone entering upon or passing along or over any such roadway, pathway or trail on his way to or from a public beach shall be liable only for such actual physical damage as he may cause in so doing. [L. 1925, c. 28, s. 1; R. L. 1945, s. 11751; am. L. 1945, c. 76, s. 1.]"

[But compare with next Act 48, D-186, amending trespass provisions of § 11771.]

Chapter 287. VAGRANTS.

Series D-186: ACT 48

An Act to Amend Section 11771 of the Revised Laws of Hawaii 1945, Relating to Vagrancy and Other Crimes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 11771 of the Revised Laws of Hawaii 1945 is hereby amended by deleting from lines 19 to 22, inclusive, thereof the following clause, "or every person who is found by night without lawful excuse (the proof of which excuse shall be upon such person) in or upon any dwelling house or other building or any closed yard, or on board any vessel;" and substituting therefor the following clause: "or every person who is found without lawful excuse (the proof of which excuse shall be upon such person) in or upon the dwelling house, building, yard, or the land of another about or near any building used for dwelling purposes, or on board any vessel;"

Section 2. This Act shall take effect upon its approval; provided, however, that nothing in this Act shall be construed to apply to or in anywise affect any offense heretofore committed or any prosecution therefor.

(Approved April 27, 1945.) H.B. 516, Act 48.

Note: As so amended, § 11771 reads:

"Sec. 11771. Vagrants; beggars; pickpockets, etc.; loitering; dissolute persons; kahunas; prowlers; tramps; fortune tellers; common prostitutes; drunkards; disorderly persons, etc.; penalty. Every person without visible means of living who has the physical ability to work and who does not seek employment, nor labor when employment is offered him; or every beggar who solicits alms repeatedly or causes any child so to do, or every person who roams about from place to place without any lawful business; or every person known to be a **pickpocket**, thief, burglar, or confidence operator, either by his own confession, or by his having been convicted of any such offenses, and having no visible or lawful means of support when found loitering around any steamboat landing, railroad depot, banking institution, broker's office, place of amusement, billiard parlor, auction room, store, shop or crowded thoroughfare, car or omnibus, or any public gathering or assembly; or every idle, or lewd, or **dissolute person**, or associate of known thieves, or who is wanton or lascivious in speech or behavior, every **person who practices hoopiopio**, hooounauna, hoomanamana, anaana or pretends to have the power of praying persons to death or who pretends to **tell fortunes** for money or other reward; every person who has in his possession without lawful excuse (the proof of which excuse shall be upon such person) any false or skeleton key or any implement of house breaking; or every person who is found without lawful excuse (the proof of which excuse shall be upon such person) in or upon the dwelling house, building, yard, or the land of another about or near any building used for dwelling purposes, or on board any vessel; or every person who wanders about the streets at late or unusual hours of the night, without any visible or lawful business; or every person who lodges in any barn, shed, shop, outhouse, vessel, or place other than such as is kept for lodging purposes, without the permission of the owner or party entitled to the possession thereof; or every **person who lives in and about houses of ill-fame**; or any person who offers to or holds himself out as able to or does publicly for a means of livelihood, tell fortunes by the reading of palms or by any other means, or every **common prostitute**, or every **common drunkard**; or every person who is dangerous or disorderly by reason of his being a rioter, disturber of the peace, going offensively armed, uttering menaces or threatening speeches or otherwise, is a vagrant and shall be punished by a fine of not less than ten dollars nor more than five hundred dollars or by imprisonment for not more than one year, or by both fine and imprisonment. [P. C. 1869, c. 37, s. 1; am. L. 1896, c. 36, s. 1; am. L. 1903, c. 41, s. 1; am. L. 1913, c. 49, s. 1; am. L. 1923, c. 188, s. 1; R. L. 1925, s. 4492; R. L. 1935, s. 6310; R. L. 1945, s. 11771; am. L. 1945, c. 48.]"

["Crimes of violence," R. L. 1945, s. 10834; see also s. 11774, sorcery.]

Title 31. DECEDENTS' ESTATES.

Chapter 290. PROBATE.

[Sec. 12014.01, added by Act 212, D-192, post.]

Series D-187: ACT 215

An Act to Amend Section 12015, Chapter 290 of the Revised Laws of Hawaii 1945, Relating to the Continuance of Partnership by Executors or Administrators.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12015 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12015. Continuance of partnership. When at the time of his death the decedent was a member of a partnership, and under the terms of the will of the decedent the executor is authorized to continue the business of the partnership, or under the terms of the articles or agreement of partnership provision is made for the continuance of the partnership after the death of any partner, or if it shall appear to be to the best interests of the estate, the executor or administrator may, by order of the probate court made either ex parte or upon such notice as the court may direct, under such terms, conditions and agreements as may be approved by the court, and with the approval of the remaining partner or partners, be authorized to become or continue to be a limited partner in the partnership upon compliance with the provisions of chapter 163 relating to limited partnerships." [L. 1937, c. 29, s. 1; R. L. 1945, s. 12015; am. L. 1945, c. 215, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) **S.B. 208, Act 215.**

[See § 12022, amended by Act 273, D-201, post, pp. 319-320.]

Series D-188: ACT 122

An Act to Amend Sections 12026, 12027 and 12028 of the Revised Laws of Hawaii 1945, Relating to the Sale of the Real Property of a Decedent.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12026 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12026. Real estate; sale. The real property of a decedent shall be subject to sale by the administrator, or by the executor unless power to sell is given by the will, only when authorized by the court. The court may authorize such sale for payment of expenses of administration, family allowance, estate and inheritance taxes or debts, or whenever such sale shall appear to the court to be for the best interests of the estate and not inconsistent with the will, whether or not the personal property of the estate has been exhausted. In every such case of a sale of real property and payment of part or all of the proceeds for any of the aforesaid purposes the residue of the proceeds, if any, shall be considered as real property and, together with any available personal property of the estate, equal, so far as the same is sufficient, in inventoried value to the amount of the proceeds so expended in said payment, shall be distributed among the same persons and in the same proportions as the real property would have been if it had not been sold, so that the values of the portions of the estate received by the persons entitled to share therein shall, as near as possible, amount to the same as if personal instead of real property had been sold. In every such case of sale of real property without payment of any part of the proceeds for any of the aforesaid purposes, the proceeds shall be considered as real property and shall be distributed among the same persons and in the same proportions as the real property would have been if it had not been sold." [R. L. 1945, s. 12026; am. L. 1945, c. 122, s. 1.]

Section 2. Section 12027 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12027. Petition. The executor or administrator shall present to the judge having jurisdiction of the estate a petition setting forth the condition of the estate, and the facts and circumstances tending to show the necessity or expediency of the sale. If it shall appear to the judge either that it is necessary or that it would be advisable and for the benefit of the estate that the real property or any part thereof should be sold, and that

sufficient notice of the proposed sale has been given to the persons interested in the estate, the judge may authorize the executor or administrator to sell the said real property either at private sale or at public auction on such terms as the judge shall order." [L. 1911, c. 121, s. 2; R. L. 1945, s. 12027; am. L. 1945, c. 122, s. 2.]

Section 3. Section 12028 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12028. Bond; confirmation. Every executor or administrator so authorized to sell real property shall give bond to the judge, with sufficient sureties, conditioned to sell the same and dispose of the proceeds in the manner provided by law; **provided,** however, that no such bond shall be required from an executor appointed without bond by a will or from an executor or administrator who has already given a sufficient bond. He shall use his utmost endeavors to dispose of the real property in such manner as will be most for the advantage of the estate. The executor or administrator shall obtain from the judge an order of confirmation of the sale before making conveyance of the real property sold. The order confirming the sale shall be given upon affirmative proof that the executor or administrator has fully complied with the order of the judge authorizing said sale and that the selling price was a fair and just price for the property sold." [L. 1911, c. 121, s. 3; R. L. 1945, s. 12028; am. L. 1945, c. 122, s. 3.]

Section 4. This Act shall take effect upon its approval.

(Approved May 8, 1945.) H.B. 662, Act 122.

[Note: See Act 211, D-203, p. 327, guardians' sale.]

Series D-189: ACT 206

An Act to Amend that Portion of Chapter 290 of the Revised Laws of Hawaii 1945 Relating to the Administration of Small Estates by Amending Section 12037 Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 290 of the Revised Laws of Hawaii 1945 is hereby amended by amending section 12037 thereof to read as follows:

"Sec. 12037. Clerk of circuit court to administer. Whenever by reason of the death of any person domiciled or residing in the Territory, testate or intestate, there shall be money or funds due and payable to the estate of such person or other property belonging to such estate of a total value not exceeding one thousand five hundred dollars, and an executor or administrator of such estate has not been appointed, the clerk of the circuit court of the circuit in which such person was residing or domiciled at the time of his death may, upon the verified petition of such clerk or of any person interested, obtain an order authorizing him to administer such estate, and as such administrator he shall collect and receive such money, funds or other property of such estate and administer the same. Such order may be made without notice or hearing if it shall appear from the verified petition or any affidavit in support thereof, that sufficient grounds exist therefor; provided, however, that proof of such grounds shall, nevertheless, be made at the hearing for the determination of the persons entitled to distribution provided for by section 12041, or at any other hearing. Except as otherwise specifically required or authorized by law or where he may be interested as an heir, legatee or devisee, no clerk of any circuit court shall act as administrator of any estate where the value of the same, wheresoever situate, is in excess of one thousand five hundred dollars; but this prohibition shall not prohibit the clerk from proceeding with the administration of any estate valued in excess of one thousand five hundred dollars where such excess first becomes known subsequent to his appointment as administrator, provided such excess does not exceed five hundred dollars. No fees shall be allowed the clerk."

[L. 1917, c. 91, pt. of s. 1; am. L. 1919, c. 18, s. 1; am. L. 1923, c. 92, s. 1; R. L. 1925, s. 2501; am. L. 1933, c. 93, ss. 1, 6; R. L. 1935, s. 4798; am. L. 1939, c. 87, s. 1; R. L. 1945, s. 12037; am. L. 1945, c. 206, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) **H.B. 12, Act 206.**

[See also Act 258, **D-190**, and Act 199, **D-191**.]

Series D-190: ACT 258

An Act to Amend that Portion of Chapter 290 of the Revised Laws of Hawaii 1945, Relating to the Administration of Small Estates by Adding Thereto a New Section Numbered 12037.01.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 290 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section numbered 12037.01, to read as follows:

"Sec. 12037.01. Estates of non-resident members of the military or naval service of the United States. Upon the death of any member of the military or naval service of the United States not resident or domiciled in the Territory, testate or intestate, leaving only personal property within the Territory of a value not in excess of one thousand five hundred dollars, where an executor, administrator or ancillary administrator has not been appointed within the Territory, the clerk of the circuit court of a circuit in which the decedent had personal property at the time of his death may, upon the verified petition of such clerk or of any person interested, be appointed administrator or ancillary administrator, and as such administer the estate, in the manner provided in sections 12037 to 12043, both inclusive; **provided**, that where the clerk acts as ancillary administrator, distribution of the balance of the estate remaining after payment of claims and charges may be made to the domiciliary executor or administrator." [L. 1945, c. 258, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 21, 1945.) **S.B. 335, Act 258.**

[Note: Sec. 12037.01, renumbered under authority of J. R. 4, post.]

Series D-191: ACT 199

An Act Relating to the Administration of
Small Estates of Non-Residents Who Die Within the
Territory During the Period of the Present War.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 12047.01.] Section 1. [Estates of temporary residents, war emergency.] Upon the death of any person temporarily within the Territory, testate or intestate, leaving only personal property within the Territory of a value not in excess of one thousand five hundred dollars, where an executor, administrator or ancillary administrator has not been appointed within the Territory, the clerk of the circuit court of a circuit in which the decedent had personal property at the time of his death may, upon the verified petition of such clerk or of any person interested, be appointed administrator or ancillary administrator, and as such administer the estate, in the manner provided in sections 12037 to 12043, both inclusive; **provided**, that where the clerk acts as ancillary administrator, distribution of the balance of the estate remaining after payment of claims and charges may be made to the domiciliary executor or administrator; and **provided** further, that this section shall apply only to the estates of persons who die in the Territory during the duration of the present war and six months thereafter. [L. 1945, c. 199, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 332, Act 199.

Chapter 292. DOWER AND CURTESY.

Note: Sec. 12100, dower, amended by Act 273, D-201, post, reads as so amended:

"Sec. 12100. Dower. Every woman shall be endowed of one-third part of all the lands owned by her husband at any time during marriage, in fee simple, or in freehold, unless she is lawfully barred thereof. She shall also be entitled, by way of dower, to an absolute property in the one-third part of all his remaining property owned by him at the date of his death, after the payment of all his just debts. The interests to which the wife is entitled in accordance with this section in the husband's real and personal property shall not apply to, and nothing in this section shall be deemed to give to the wife any interest in, the husband's interest in community property, real or personal. [C. C. 1859, s. 1299; R. L. 1935, s. 4830; am. L. 1939, c. 33, s. 1; R. L. 1945, s. 12100; am. L. 1945, c. 273, s. 3.]"

Series D-192: ACT 212

An Act Relating to Dower and Curtesy and
Amending Sections 12108 and 12115 of the Revised
Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12108 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12108. Barred by divorce or misconduct. In case of divorce dissolving the marriage contract, the wife shall not be endowed.

No wife who shall have, for one year or upwards, previous to the death of her husband, wilfully and utterly deserted her husband, shall be endowed or be entitled by way of dower to any property owned by him at the date of his death." [C. C. 1859, s. 1307; R. L. 1945, s. 12108; am. L. 1945, c. 212, s. 1.]

Section 2. Section 12115 of the Revised Laws of Hawaii 1945 is hereby amended by adding a new paragraph at the end thereof to read as follows:

"No husband who shall have, for one year or upwards, previous to the death of his wife, wilfully and utterly deserted his wife, or wilfully neglected or refused to provide suitable maintenance for his wife, shall be entitled to any right or interest in his wife's property by way of curtesy."

[Sec. 12115, further amended by Act 273, D-201, post:

Note: As so amended by D-192 and by D-201, § 12115 reads:

"Sec. 12115. Curtesy; election between curtesy and will. In case the wife shall die first and intestate, then except as in this section provided, her property shall immediately descend to her heirs, but shall be in all cases, whether she die testate or intestate, subject to a life interest in the husband in one-third of the wife's lands owned by her in fee simple or in freehold at the date of her death. The husband shall also, whether the wife die testate or intestate, be entitled, by way of curtesy, to an absolute property in the one-third part of all the wife's remaining property owned by her at the date of her death, after the payment of all her just debts. During the life of the wife the husband shall have no curtesy right inchoate or otherwise in the wife's property. If any provisions be made for the widower in the will of his wife, he shall be subject to the same requirements with respect to election between his curtesy and the provisions of the will, or taking under both, as is a widow in similar circumstances under the provisions of sections 12113 and 12114.

"No husband who shall have, for one year or upwards, previous to the death of his wife, wilfully and utterly deserted his wife, or wilfully neglected or refused to provide suitable maintenance for his wife, shall be entitled to any right or interest in his wife's property by way of curtesy.

"The interests to which the husband is entitled in accordance with this section in the wife's real and personal property shall not apply to, and nothing in this section shall be deemed to give the husband any interest in, the wife's interest in community property, real or personal. [L. 1888, c. 11, s. 7; R. L. 1925, s. 3000; am. L. 1933, c. 68, s. 1; R. L. 1935, s. 4845; am. L. 1939, c. 33, s. 4; R. L. 1945, s. 12115; am. L. 1945, c. 212, s. 2 and c. 273, s. 4.]"

[Sec. 12014.01.] Section 3. [Determination of bar to dower or curtesy.] The bar to dower and curtesy or to rights by way of dower or curtesy provided by the second paragraph of sections 12108 and 12115, respectively, as hereinabove amended, shall not operate except upon determination by order of a judge of probate in proceedings for the administration of the estate, or by a judge in equity in proceedings for the determination of heirs, of the deceased spouse, and then only if claim of bar be made by a person claiming such estate, or any part thereof, or any interest therein, of which claim and of the hearing thereon, the spouse sought to be barred shall be notified either by personal service or by publication of the notice thereof, in the manner provided for, and which may be included in, notice of determination of heirs or devisees or by both such personal and published service, as the presiding judge may direct. The order of determination shall be conclusive as to the rights of the surviving spouse, subject only to be reversed, set aside, or modified on appeal. A certified copy of such order shall be recorded in the bureau of conveyances, in case the title to land is involved, and if the land affected shall have been registered in the land court, a like copy shall be filed in the office of the assistant registrar of said court. [L. 1945, c. 212, s. 3.]

Section 4. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 54, Act 212.

Title 52. DOMESTIC RELATIONS.

Chapter 296. ANNULMENT, DIVORCE, ETC.

[Sec. 12233, amended by Act 273, D-201, post.]

Chapter 298. CHILDREN.

Series D-193: ACT 187

An Act to Amend Section 12265 of the Revised Laws of Hawaii 1945, Relating to Children.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12265 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12265. Parents et al., contributing to delinquency, etc; penalty. Any parent, or legal guardian, or person having the custody of any dependent or delinquent child, as defined in section 12321, or any other person who shall knowingly or wilfully encourage, aid, cause, abet, or connive at such state of dependency or delinquency, or shall knowingly or wilfully do any act or acts that directly produce, promote or contribute to the conditions which render such child a dependent or delinquent child, as so defined, or who wilfully neglects to do that which will directly tend to prevent such state of dependency or delinquency, or conditions that make such, as aforesaid, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not more than two hundred dollars, or by imprisonment for not more than one year, or both fine and imprisonment." [L. 1925, c. 167, pt. of s. 1; R. L. 1945, s. 12265; am. L. 1945, c. 187, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 134, Act 187.

[Sec. 12267, amended by Act 142, D-154, ante.]

[Note to Sec. 12271: The first line of the second paragraph of this section in R. L. 1945 should read: "Written consent must be given to the adoption by the child if of the age of." See L. 1915, c. 47, s. 1; L. 1919, c. 3, s. 1; L. 1921, c. 129, s. 1.]

Series D-194: ACT 40

AM. '49
Sr.A.

An Act to Amend Section 12276 of the Revised Laws of Hawaii 1945 and Adding Thereto Two New Sections to be Numbered 12276.01 and 12276.02, Relating to Adoption.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12276 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12276. Decree. After considering the petition and such evidence as the petitioners and any other properly interested person may wish to present, the judge may enter a decree of adoption if he is satisfied (a) that the minor child is physically, mentally and otherwise suitable for adoption by the petitioners, (b) that the petitioners are fit and proper persons and financially able to give the child a proper home and education, and (c) that the adoption will be for the best interests of the child, which decree shall take effect upon such date as may be fixed therein by the judge, such date to be not later than six months after the date of the entry of the decree; **provided,** however that, before entering such decree, the judge may, in his discretion, notify the director of the department of public welfare of the Territory or his agent of the pendency of such petition for adoption and allow a reasonable time for the director to make such investigation as he may deem proper as to the fitness of the petitioners to adopt the child, and as to whether the best interests of the child will be subserved by such adoption. The director shall make a report to the judge within the time so required, reporting the fact disclosed without recommendation. If the judge shall determine that such report discloses facts adverse to the petitioners or indicates that the best interests of the child will not be subserved by adoption, he shall thereupon give notice of the same to the petitioners and afford them a reasonable opportunity to rebut the report.

"The decree may provide that, during the period between the entry thereof and the effective date of adoption, the care, custody and control of the child be given to the petitioners, who, in such event, shall be liable during such period for the care, maintenance and support of the child and for its torts in the same manner as parents, and may further provide for the supervision and visitation of the child by said director or his agent and for such reports in connection therewith as the judge may require. At any time during such period, the judge may, for good cause, set aside or modify such decree.

✓ "The family name of the adoptive child shall be changed to that of the adoptive parents and the given name of the child may be fixed or changed at the same time. Such change of name shall not be recorded in the bureau of conveyances." [R. L. 1945, s. 12276; am. L. 1945, c. 40, s. 1.]

Section 2. Two new sections are hereby added to said Revised Laws of Hawaii 1945, to be numbered 12276.01 and 12276.02, respectively, and to read as follows:

"Sec. 12276.01. **Record of adoption.** A certified copy of the decree of adoption shall be sent to the bureau of vital statistics of the board of health. Such bureau shall cause to be made a new record of the birth in the new name of the child with the names of the adoptive parents, and shall then cause to be sealed and filed the original birth certificate of the child with the decree of the judge, and such sealed package shall be opened only by order of court. If the birth of the child occurred outside of the Territory, the clerk of the court shall, upon request of the adoptive parents, furnish them with a certified copy of the decree of adoption. [L. 1945, c. 40, pt. of s. 2.]

"Sec. 12276.02. **Secrecy of records.** The records in adoption proceedings, after the petition is filed and prior to the entry of the decree, shall be open to inspection only by the parties or their attorneys, the director of the department of public welfare or his agent, or by any proper person on a showing of good cause therefor, upon order of court. Upon the entry of the decree the clerk of the court shall seal all records in the proceedings. Such seal shall not be broken and such records shall not be inspected by any person, including the parties to the proceedings, except upon order of court.

"The clerk of the court shall keep a docket of all adoption proceedings, which may only be inspected by order of court." [L. 1945, c. 40, pt. of s. 2.]

Section 3. This Act shall take effect upon its approval and shall be applicable to adoption proceedings pending on the effective date of this Act as well as to future adoption proceedings, provided that Sec. 12276.02 shall not be applicable to such pending adoption proceedings.

(Approved April 25, 1945.) H.B. 88, Act 40.

Chapter 299. ILLEGITIMATES.

PATERNITY PROCEEDINGS.

Series D-195: ACT 177

An Act to Amend Sections 12301, 12302, 12303 and 12304 of the Revised Laws of Hawaii 1945, Relating to Illegitimates.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12301 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first paragraph thereof to read as follows:

[Sec. 12301. Application for arrest of alleged father; time limit; examination.]

"Any unmarried woman or married woman, who has separated from and was not living with her husband prior to and at the time the child was conceived, when quick with child or within two years after the delivery thereof, may apply to the judge of the juvenile court of the circuit in which she or the alleged father of the child resides, or in which she was delivered of the child, for a warrant for the arrest of the person whom she accuses of being the father thereof."

Note: The rest of § 12301 reads:

"The warrant may also be applied for by either of the parents or guardian of the mother, or by any person as the next friend of the child within six months after the date of its birth. If after the complaint has been made either by the mother or by any one as above specified, the mother dies or refuses or neglects to prosecute the same, any of such persons may prosecute the case to final judgment for the benefit of the parent, guardian or the child.

Before issuing the warrant, the judge shall examine the applicant under oath concerning the residence, the character and married or single condition of the mother when the child was begotten, the time and place where it was begotten, where and when it was born, if born, and such other circumstances as the judge shall deem necessary or proper for testing the truth of the accusation, and shall reduce the statement of the applicant to writing and sign the same. [L. 1913, c. 101, s. 2; R. L. 1925, s. 3054; am. L. 1931, c. 14, s. 1; R. L. 1935, s. 4550; R. L. 1945, s. 12301; am. L. 1945, c. 177, s. 1.]"

[See s. 12279, support, inheritance; s. 12280, legitimation; s. 12310, statute of limitations.]

Section 2. Section 12302 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first sentence thereof to read as follows:

[Sec. 12302. Issuance of warrant; time limit; preliminary hearing; bond; trial when, jury.]

"If, on the examination, there appears probable cause to believe that the woman is quick with child, or that the child, if born, is within the age limit of the particular application, and that the accused person is the father thereof, the judge shall issue a warrant directed to the high sheriff, his deputy, the sheriff of the county or city and county, or his deputy, or any police officer within the circuit, requiring the accused to be arrested and brought for preliminary examination before the judge of the juvenile court, who, upon such preliminary examination, may require the accused to enter into bond with good sureties to the Territory in a sum to be fixed by the judge for his appearance and trial in the juvenile court, but if the woman be quick with child at the time of the arrest, final trial shall not take place until after the birth of the child."

Note: The rest of § 12302 reads as follows:

"If the accused shall fail to give the bond required of him, the judge may forthwith commit him to the custody of the sheriff or chief of police of the county, there to remain until he shall enter into the required bond or otherwise be discharged by due process of law. In all prosecutions under this chapter, the accused shall, upon his demand therefor, be entitled to a trial by jury; otherwise the trial shall be by the judge. [L. 1913, c. 101, s. 3; am. L. 1923, c. 63, pt. of s. 1; am. L. 1931, c. 14, s. 2; R. L. 1945, s. 12302; am. L. 1945, c. 177, s. 2.]"

Section 3. Section 12303 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12303. Trial; judgment. If the accused shall fail to appear, the bond for his appearance as aforesaid shall be forfeited; but the trial of, or other proceedings in, the cause shall, nevertheless, proceed as though he were present; and the court shall upon the findings of the judge, or the verdict of the jury, make such orders as it shall deem proper as though the accused were in court.

If the accused acknowledges in open court the paternity of the child, or if at the trial the finding of the court or jury be against the accused, the court, in rendering judgment thereon, may make an order for the payment of the prenatal medical care and costs of the mother's confinement for the purpose of childbirth and the expenses of childbirth in such amount or amounts as may be deemed reasonable by the court, and shall

make an order for the payment of keeping, maintenance and education of the child as may seem proper, until the child reaches sixteen years of age, unless the child, prior thereto, is adopted, emancipated or becomes self-supporting, of such sum of money, in such installments, and in such manner, as shall to the court seem best, taking into consideration the financial standing of the defendant, his income, earning capacity, and those of his family who are dependent upon him for their support, maintenance and education.

In case of forfeiture of the appearance bond, the money collected upon the forfeiture shall be applied in payment of the judgment against the accused." [L. 1913, c. 101, s. 4; R. L. 1945, s. 12303; am. L. 1945, c. 177, s. 3.]

Section 4. Section 12304 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12304. Bond after judgment. An accused, if he shall be adjudged to be the father of the child, may thereupon be required by the court to enter into bond, with good sureties, to the Territory in a sum to be fixed by the judge, conditioned for the payment of the sum or sums adjudged in such installments, and in such manner as the court shall direct. The judge may, from time to time, require the accused to furnish a new or additional bond in this connection. In case of his failure to enter into the bond or bonds, the court may commit him to the custody of the sheriff of the county or city and county, there to remain until he shall give the bond or bonds or pay the total amount of the sum or sums adjudged.

If the child shall die, be adopted, emancipated or become self-supporting, before the expiration of the bond or bonds, the person adjudged to be the father of the child, and his sureties, shall be discharged from the bond or bonds upon the payment of all amounts due prior thereto." [L. 1913, c. 101, s. 5; am. L. 1923, c. 163, pt. of s. 1; am. L. 1931, c. 14, s. 3; R. L. 1945, s. 12304; am. L. 1945, c. 177, s. 4.]

Section 5. This Act shall take effect upon its approval.

(Approved May 15, 1945.) S.B. 142, Act 177.

Chapter 300. JUVENILE COURTS.

[Sec. 12322, amended by Act 142, D-154, ante.]

Series D-196: ACT 4

A. '49
A
An Act to Amend Section 12329 of the Revised Laws of Hawaii 1945, Relating to the Care and Custody of Dependent and Delinquent Children.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12329 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12329. Care and custody of dependent and delinquent children; expenses. A delinquent or dependent child while under the orders of the judge, shall be in the care and custody of the probation officer or such other person or institution as the judge may designate, and all necessary expenses incurred in the proper care of such child shall, if necessary, be paid out of such moneys as may be appropriated for the expenses of circuit courts; provided, however, that the judge may, at any time, or whenever any dependent or delinquent child has been committed to the care of any public or private institution or to the care of some reputable citizen, cite the parent or parents of the child to appear before him to show cause why the parent or parents should not pay such sum or sums as may be in the discretion of the judge necessary for the maintenance and support of the child. The judge may make such orders for the maintenance and support of the child as the judge may deem just and reasonable, having regard to the financial ability of the parent or parents and all other circumstances of the case, and may enforce the orders by summary process; provided, further, that no judge or probation officer shall be entitled to receive any compensation for any services performed under this chapter, except as otherwise provided for by law." [R. L. 1945, s. 12329; am. L. 1945, c. 4, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved March 27, 1945.) S.B. 133, Act 4.

[Note: Contributing to delinquency, see Act 187, D-193, page 300.]

[Sec. 12332, amended by Act 142, D-154, ante.]

Chapter 301. MARRIAGE.

Series D-197: ACT 136

An Act to Amend Chapter 301 of the Revised Laws of Hawaii 1945, by Adding Thereto a New Section, Numbered 12356.01, Requiring, Subject to Certain Exceptions, a Premarital Examination, and Providing Penalties for Violation Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 301 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section, to be numbered 12356.01, reading as follows:

"Sec. 12356.01. Premarital examination requirement. (a) Except as in this section otherwise provided, no application for a marriage license shall be accepted by a marriage license agent unless accompanied by a physician's statement, signed by a licensed physician or by a commissioned medical officer of the United States army, navy, or public health service, that the applicant for such license has on a day named in such statement, which day shall be within a period of thirty days immediately prior to the first day on which such license may be issued, been given an examination for syphilis, including a serological test, and is not, in the opinion of such physician, infected with syphilis or, if so infected, is not, in his opinion, in a stage of syphilis which is, or may become, communicable.

(b) On the joint petition under oath of both parties desiring a marriage license and for sufficient cause satisfactorily proved to him by affidavit or otherwise, a circuit judge, if satisfied that the public health and welfare will not be injuriously affected thereby, may in his discretion make an order dispensing with compliance with the provisions of paragraph (a) as to either or both of the parties or extending for such parties by not more than sixty days to a day named in the order the period of thirty days mentioned in paragraph (a). The circuit judge shall, in his decision on such petition, state his findings of fact in support of the order. The order shall become effective according to its tenor when a certified copy of the order shall have been filed with the marriage license agent.

(c) The serological test shall be a serological test for syphilis approved by the board of health and performed in a laboratory of, or for such test approved by, the board of health. On request of a licensed physician the board of health shall perform such test without charge.

(d) After the completion of the serological test but prior to the issuance of the physician's statement, a written report of the test showing its result shall be transmitted to the physician by the director of the laboratory; one copy of the report shall be filed with the board of health by such director and another shall for one year be held on file at the laboratory for inspection by any authorized agent of the board of health. No physician's statement shall be effective under paragraph (a) unless accompanied on the same sheet by a statement signed by the laboratory director or his authorized subordinate of the name and completion date, but not the result, of the test and the name and address of the person whose blood was tested, and by a statement signed by the applicant that he is such person.

(e) No information secured from any examination, test, report, statement or circuit judge's order or decision made under this section shall be divulged by any person except in the performance of his official duties or his professional or other employment, as contemplated by law, or in compliance with a court order, or except as to his own condition.

(f) Nothing in this section shall impair or affect any law or any ordinance, rule, or regulation made by authority of law, relative to the reporting of cases of syphilis discovered by physicians.

(g) Any person who shall by fraud or wilful misrepresentation circumvent or defeat, or attempt to circumvent or defeat, any purpose or provision of this section, or who, being a marriage license agent, shall accept any marriage license application in violation of this section, or shall with knowledge that any statement accompanying the application for such a license contains any false statement issue a marriage license, or who shall violate paragraph (e) of this section, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or by both such fine and such imprisonment.

(h) The board of health is hereby authorized to prescribe the form of the statements and the report mentioned in paragraph (d) of this section.

(i) All costs of examinations, tests and statements required by this Act shall be paid by the board of health from any moneys that may be appropriated for the expenses of said board." [L. 1945, c. 136, s. 1.]

Section 2. This Act shall take effect on July 1, 1945.

(Approved May 11, 1945.) H.B. 511, Act 136.

Series D-198: ACT 5

An Act to Amend Section 12366, Revised Laws of Hawaii 1945, and to Add Thereto a New Section to be Known as Section 12366.01, Relating to Married Women's Contract.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12366 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12366. Contracts. A married woman may make contracts, oral and written, sealed and unsealed, with persons other than her husband, in the same manner as if she were sole. A married woman and her husband may contract with each other, in the following matters:

1. By deed or assignment to or in favor of the other;
2. By agreement settling their respective rights in property owned by them, or either of them, when such agreement is made in contemplation of divorce or judicial separation;
3. By agreement providing for alimony or other periodic payments when such agreement is made in contemplation of divorce or judicial separation, **provided**, however, that such agreement shall be approved by the judge hearing the cause between said parties; any such agreement which shall be approved as herein provided shall be valid and binding between the parties in accordance with its terms and shall not thereafter be subject to modification or rescission or annulment by the judge pursuant to section 12226 or section 12229 or otherwise, and any such agreement shall thereafter be subject to modification or termination by agreement between the parties, **provided**, however, that any such agreement or modification or termination shall be approved by a judge of the same circuit as the judge who approved the original agreement;

4. By partnership agreements for business purposes." [R. L. 1945, s. 12366; am. L. 1945, c. 5, s. 1.]

[For property contracts between husband and wife see Community Property, Act 273, D-201, post.]

Section 2. A new section to be known as section 12366.01 is hereby added to read as follows:

"Sec. 12366.01. Partnership agreements heretofore entered into by and between husband and wife are hereby declared valid." [L. 1945, c. 5, s. 2.]

Section 3. If any section of this Act shall be held invalid, the remainder thereof shall not be invalidated.

Section 4. This Act shall take effect upon its approval.

(Approved March 27, 1945.) H.B. 165, Act 5.

[Sec. 12367, repealed by Act 273, D-201, post.]

Series D-199: ACT 254

An Act Relating to Married Women, Repealing Section 12375 of the Revised Laws of Hawaii 1945, and Amending Sections 12371, 12372, 12373 and 12374 of Said Revised Laws.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12375 of the Revised Laws of Hawaii 1945 is hereby repealed. [Repealed again by Act 273, D-201. post.]

Section 2. Section 12371 of said Revised Laws is hereby amended by deleting, at the end thereof, the following:

" , except as provided in section 12375".

Note: As so amended, § 12371 reads:

"Sec. 12371. Not liable for husband's debts. A married woman shall not be liable for the debts of her husband; nor shall her property be liable to be taken on execution or other process against him. [L. 1888, c. 11, s. 6; R. L. 1945, s. 12371; am. L. 1945, c. 254, s. 2.]"

Section 3. Section 12372 of said Revised Laws is hereby amended by deleting at the end of the first sentence thereof, the following:

" , except such debts as may be contracted by her in the course of or in connection with any separate business which she may carry on as provided in section 12375".

[Sec. 12372 is amended in toto by Act 273, D-201, post.]

Section 4. Section 12373 of said Revised Laws is hereby amended by deleting, at the end thereof, the following:

" , except as provided in section 12375".

[Sec. 12373 is repealed by Act 273, D-201, post.]

Section 5. Section 12374 of said Revised Laws is hereby amended by deleting therefrom the following:

" , except as provided in the following section,".

[Sec. 12374 is repealed by Act 273, D-201, post.]

Section 6. This Act shall take effect upon its approval.

(Approved May 21, 1945.) S.B. 123, Act 254.

Series D-200: ACT 145

An Act Relating to Change of Names and
Amending Section 12387 of the Revised Laws of Ha-
waii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12387 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12387. How changed. It shall not be lawful to change any name adopted or conferred under this chapter, except (a) upon a decree of the governor, which decree shall be founded upon a petition executed by the person desirous of changing his name or in case of a minor by the parents or by such parent who has custody of the minor, or by the guardian of the person of such minor, which petition shall be accompanied by the payment of filing costs in the amount of five dollars, and shall be published once in some newspaper of general circulation in the Territory in such decree mentioned, and the petitioner shall deposit in the office of the governor an affidavit executed by an officer of the newspaper publishing such decree, the affidavit to show that the decree has been published as provided herein, and to have attached thereto a clipping showing the decree as published, or (b) by any court or judge of competent jurisdiction, embodying in a decree of adoption a provision for change of name of the person adopted, or embodying in a decree of divorce a provision that a married woman may upon such divorce resume the use of her maiden name, or the name of a former husband.

The change of name provided for herein by decree of the governor shall be effective upon the date of the signing of the decree.

In all cases of change of name, except as otherwise provided, the decree shall be recorded in the bureau of conveyances.

All changes of names made by decree of any governor, or by the president of the Republic of Hawaii, or by the president of the Provisional Government of Hawaii, or by any king or queen of the Hawaiian Islands, are ratified and confirmed." [L. 1860, p. 32, s. 6; am. L. 1872, c. 30, s. 1; am. L. 1907, c. 75, s. 1; R. L. 1935, s. 4666; am. L. 1935, c. 93, s. 1; R. L. 1945, s. 12387; am. L. 1945, c. 145, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 11, 1945.) S.B. 132, Act 145.

[Note: See Act 40, D-194, pp. 301-302, Adoption.]

Series D-201: ACT 273

M. '49
A.

An Act Relating to Community Property; Adding to Title 32 of the Revised Laws of Hawaii 1945 a New Chapter Relating to Community Property, to be Known as Chapter 301A; Amending Section 12022 of the Revised Laws of Hawaii 1945, Relating to Creditors' Claims in Cases of Estates, to Provide with Respect to Claims Against the Community of which the Deceased was a Member; Amending Section 12100 of the Revised Laws of Hawaii 1945, Relating to Dower, to Provide that there shall be no Dower in Community Property; Amending Section 12115 of the Revised Laws of Hawaii 1945, Relating to Curtesy, to Provide that there shall be no Curtesy in Community Property; Amending Section 12233 of the Revised Laws of Hawaii 1945, Relating to Property of Wife on Divorce from Husband, to Provide that Said Section Shall Not Apply to Community Property; Amending Section 12372 of the Revised Laws of Hawaii 1945, Relating to a Husband's Liabilities, to Eliminate Provisions Deemed to be Incompatible with Chapter 301A; and Repealing Sections 12367, 12373, 12374 and 12375, of the Revised Laws of Hawaii 1945, Relating to the Account for Which Work and Labor is Performed and Services are Rendered by a Married Woman and Relating to the Liability of a Husband for Certain Obligations of His Wife, to Eliminate Provisions Deemed to be Inconsistent with the Provisions of Chapter 301A and to Eliminate Provisions Deemed to be Incompatible with Chapter 301A.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to Title 32 of the Revised Laws of Hawaii 1945 a new chapter, to be numbered chapter 301A, relating to community property, and to read as follows:

"CHAPTER 301A. COMMUNITY PROPERTY.

[Sec. 12391.01.] "Sec. 1. Separate property of husband. All property, both real and personal, of the husband owned by him before marriage or before the effective date of this chapter, whichever is the later, and all property acquired by the husband thereafter by gift, devise, bequest or descent, and also all substitutions for any such property made at any time or from time to time, by sale or exchange or other disposition or by investment or otherwise, shall be his separate property. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.02.] Sec. 2. **Separate property of wife.** All property, both real and personal, of the wife owned by her before marriage or before the effective date of this chapter, whichever is the later, and all property acquired by the wife thereafter by gift, devise, bequest or descent, and also all substitutions for any such property made at any time or from time to time, by sale or exchange or other disposition or by investment or otherwise, shall be her separate property. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.03.] Sec. 3. **Compensation for personal injuries.** All property or moneys received as compensation for personal injuries sustained either by the husband or the wife shall be separate property of the person sustaining such injuries. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.04.] Sec. 4. **Community property.** Except as otherwise provided in this chapter, all property, both real and personal, including earnings of the husband and earnings of the wife and including rents, issues, income and other profits of the separate property of the husband and rents, issues, income and other profits of the separate property of the wife, acquired by the husband or by the wife after marriage or on or after the effective date of this chapter, whichever is the later, shall be community property of the husband and wife, and each shall be vested with an undivided one-half interest therein. The respective interests of the husband and the wife in such community property shall be present, existing and equal interests. The respective interests of the husband and the wife in such community property shall arise as an incident of marriage. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.05.] Sec. 5. **Presumption of community property.** There shall be a rebuttable presumption that all property, both real and personal, acquired by the husband or by the wife after marriage or on or after the effective date of this chapter, whichever is the later, is community property. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.06.] Sec. 6. **Ownership of property by husband and wife.** A husband and wife may hold property as joint tenants, as tenants in common, as tenants by the entirety, or as community property. There shall be a rebuttable presumption that all property, both real and personal, acquired by the husband and the wife after marriage or on or after the effective date of this chapter, whichever is the later, is community property, unless a different intention is expressed in the instrument by which the property is acquired. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.07.] Sec. 7. **Transfers—husband to wife and wife to husband.** The husband may give, grant, bargain, sell or convey directly to his wife, and the wife may give, grant, bargain, sell or convey directly to her husband, his or her community right, title, interest or estate in all or any community property, real or personal. Every such transfer made from the husband to the wife or from the wife to the husband shall operate to divest the property therein described of every claim or demand as community property, and shall vest the same in the transferee as the separate property of the transferee; **provided**, however, that no such transfer shall affect any equity in favor of creditors at the time of such transfer. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.08.] Sec. 8. **Control of husband's separate property.** The husband shall have the same right to manage, control, dispose of, and otherwise deal with his separate property as would be applicable with respect to his property generally were it not for the enactment of this chapter. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.09.] Sec. 9. **Control of wife's separate property.** The wife shall have the same right to manage, control, dispose of, and otherwise deal with her separate property as would be applicable with respect to her property generally were it not for the enactment of this chapter. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.10.] Sec. 10. **Control of community property.** The wife as agent for the community shall have the same right as though it were her separate property to receive, manage, control, dispose of and otherwise deal with that portion of the community property which consists of her earnings, the rents, issues, income and other profits of her separate property and all other community property which shall stand in her name, subject to the limitations below listed. The husband as agent for the community shall have the same right as though it were his separate property to receive, manage, control, dispose of and otherwise deal with all other community property, including that portion of the community property which consists of his earnings, the rents, issues, income and other profits of his separate property and all other community property which shall stand in his name, subject to the limitations below listed. The limitations herein referred to are as follows: (1) Neither the husband nor the wife shall dispose of or encumber community real property or lease community real property for a longer period than one year unless the other shall join in the execution of the instrument. (2) Neither the husband nor the wife shall

make any gift of community property or dispose of or encumber the same without a valuable consideration, without the consent of the other. (3) Neither the husband nor the wife shall dispose of or encumber the furniture, furnishings or fittings of the home, to the extent that the same constitute community property, without the consent of the other. (4) Neither the husband nor the wife shall have the right to devise or bequeath more than one-half of the community property. (5) The rights given to the husband and to the wife to manage, control, dispose of and otherwise deal with community property, as provided in this section, shall be exercised in good faith for the benefit of the community. In case of any violation by the husband or the wife of the above limitations or any thereof, the person aggrieved shall be entitled to appropriate relief at law or in equity, according to the nature of the relief sought, and for such purpose the wife may sue or be sued by her husband in her own name and without the interposition of a next friend. The foregoing provisions shall not entitle the wife or the husband, by court proceedings or otherwise, to interfere with or affect the right of the other to collect his or her earnings or the rents, issues, income and other profits of his or her separate property. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.11.] Sec. 11. Incapacity of spouse. (a) Whenever the husband or the wife is non compos mentis, or has been convicted of a felony and imprisoned for a period of more than one year, or whenever the husband or the wife is an habitual drunkard, or for any other reason is incapacitated to receive, manage, control, dispose of or otherwise deal with community property, the other spouse may present a petition, duly verified, to the judge, at chambers, of the circuit court of the circuit in which the petitioner resides or of the circuit wherein any of the community property is located or situated, stating the name of the incapacitated spouse, a description or summary of all community property, both real and personal, as far as known, and the facts which render the other spouse incapacitated to receive, manage, control, dispose of or otherwise deal with community property, and praying that the spouse filing the petition be substituted for the incapacitated spouse, as to the right to receive, manage, control, dispose of and otherwise deal with all or any designated portion or portions of the community property, then owned and thereafter to be acquired, which would otherwise be under the management and control of the incapacitated spouse.

(b) In all such cases service of process shall be had as in equity proceedings, provided, however, that where it is alleged that the other spouse is non compos mentis, a guardian ad

litem shall be appointed having such powers as in other civil actions.

(c) Upon the hearing of the petition so filed, the judge shall enter a decree either dismissing said petition or adjudging the spouse filing the same to have such power of receiving, managing, controlling and disposing of and dealing with all or any designated portion or portions of community property, then owned and thereafter to be acquired, which would otherwise be under the management and control of the incapacitated spouse, and containing such other provisions, all as to the judge may appear to be just, proper, equitable, and to the best interests of the community. [L. 1945, c. 273, pt. of s. 1.]

(d) In case of any change in conditions after the entry of a decree pursuant to this section, either spouse may, by petition duly verified, showing such change in conditions, apply to a judge of the same court as the judge who signed such decree for the entry of a decree modifying or rescinding such decree. In such case notice to the other spouse shall be given in such manner as the judge may direct. Upon the hearing of such application the judge shall enter a decree either denying such application or modifying or rescinding the prior decree, as to the judge may appear to be just, proper, equitable and to the best interests of the community.

[Sec. 12391.12.] Sec. 12. **Representation in legal proceedings.** The husband shall represent the community in all actions, suits and other legal proceedings. The husband shall be a necessary party and the wife shall be a proper but not a necessary party to all such actions, suits and other legal proceedings brought by or on behalf of the community. The husband shall be a necessary party and the wife shall be a proper but not a necessary party to all such actions, suits and other legal proceedings brought to enforce any debts or liabilities of the community or to effect the title to or foreclose any lien on the community property; provided that no judgment, decree or other order shall be enforced against the wife personally or against her separate property unless she shall be a party. The foregoing provisions of this section 12 are subject to the provisions of any decree which may be entered pursuant to section 11 of this chapter. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.13.] Sec. 13. **Property subject to obligations.** (a) The separate property of the wife shall be liable for debts contracted at any time by the wife and liabilities of the wife arising at any time out of tort or otherwise, including any such debts or liabilities by reason of any transaction entered into or action taken by the wife relating to the management

or control or disposition of or other dealing with or for the protection or benefit of the community property, but shall not be liable for debts or liabilities of the husband.

(b) The separate property of the husband shall be liable for debts contracted at any time by the husband and liabilities of the husband arising at any time out of tort or otherwise, including any such debts or liabilities by reason of any transaction entered into or action taken by the husband relating to the management or control or disposition of or other dealing with or for the protection or benefit of the community property, but shall not be liable for debts or liabilities of the wife.

(c) The community property shall be liable for debts contracted by the husband or by the wife or by both, and for liabilities of the husband or the wife or both arising out of tort or otherwise, in any transaction entered into or action taken by the husband or the wife or both relating to the management or control or disposition of or other dealing with or for the protection or benefit of the community property. With respect to the liability of community property for such debts and liabilities, no distinction shall be made between community property subject to the management and control of the wife and community property subject to the management and control of the husband.

(d) As between the community property and the separate property of the wife or of the husband the community property shall be liable for the debts and liabilities referred to in paragraph (c) of this section.

(e) The earnings of the wife and the rents, issues, incomes and other profits of the separate property of the wife shall be liable for debts contracted by the wife prior to the inception of the community and the liabilities of the wife arising prior to the inception of the community out of tort or otherwise.

(f) The earnings of the husband and the rents, issues, incomes and other profits of the separate property of the husband shall be liable for debts contracted by the husband prior to the inception of the community and the liabilities of the husband arising prior to the inception of the community out of tort or otherwise.

(g) As between the community property and the separate property of the wife or of the husband, the separate property shall be liable for the debts and liabilities referred to in paragraphs (e) and (f) of this section. For the purposes of said paragraphs (e) and (f) the inception of the community shall be the marriage of the husband and wife or the effective date of this chapter, whichever is the later.

(h) Nothing in this section shall be deemed to affect or modify the obligation of the husband to support his wife and family and to discharge all debts contracted by the wife for necessities for herself and family during marriage; provided, however, that if and whenever there is community property available for such purpose the husband shall be entitled to resort to such community property rather than to his separate property.

(i) Nothing in this section shall be deemed to prevent the wife or the husband from mortgaging or pledging her or his separate property or to prevent the wife and the husband from joining in a mortgage or pledge of community property as security for any indebtedness whether of the wife or of the husband or both. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.14.] Sec. 14. Divorce—division of property. In the event of the dissolution of marriage by decree of any court of competent jurisdiction, community property shall be divided between the parties by the court granting the decree, in such proportions as such court, from the facts in the case, shall deem just and equitable, and such division shall be subject to revision on appeal in all respects including the exercise of discretion by the court below. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.15.] Sec. 15. Death of husband or wife. (a) Upon the death of the husband or wife one-half of the community property shall continue to belong to the survivor, subject to the payment of claims for which the community property is liable and subject to administration expenses, and the other half shall pass in accordance with testamentary disposition by the decedent or in the absence of testamentary disposition then to the heirs of the decedent, subject to the payment of claims for which the community property is liable and subject to administration expenses. The survivor and the successor or successors of the decedent shall hold their interests as tenants in common, except as may otherwise be provided in the will of the decedent with respect to the interests of the beneficiaries thereof as among themselves.

(b) Upon the death of the husband or wife, the executor of the will or the administrator of the estate of the decedent shall administer upon the whole of the community property, including the interests therein of the survivor and of the decedent, as well as upon the separate property of the decedent. The executor or administrator shall have the same rights and powers and duties with respect to the administration and disposition of community property, real and personal, as he has with respect to the separate property of the decedent. All of the provisions of chapter 290, with respect to the administration

and disposition of property, real and personal, included in estates shall be applicable with respect to community property as well as with respect to the separate property of the decedent. The judge having jurisdiction of the estate shall determine whether and to what extent property constitutes community property or separate property of the decedent or separate property of the survivor and shall also determine whether and to what extent claims are payable out of community property or out of the separate property of the decedent. Claims and administration expenses paid out of community property shall be charged equally against the half of the community property which belongs to the survivor and the half of the community property which passes in accordance with the testamentary disposition of the decedent or to the heirs of the decedent; **provided**, however, that no estate, inheritance, succession or similar taxes payable by reason of the transfer upon the death of the decedent of the decedent's interest in the community property shall be charged against the half of the community property which belongs to the survivor. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.16.] **Sec. 16. Prospective application only.** This chapter shall not be construed to operate retroactively and any right established or accrued and any action taken prior to the effective date of this chapter shall be governed by the law in force at the time such right was established or accrued or such action was taken. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.17.] **Sec. 17. Location of property affected.** This chapter shall apply to personal property wherever situated acquired by a husband or wife while domiciled in the Territory of Hawaii and shall apply to the real property situated in the Territory of Hawaii of a husband or wife while domiciled therein. This chapter shall not apply to any property wherever situated acquired by a husband or wife while not domiciled in the Territory of Hawaii. [L. 1945, c. 273, pt. of s. 1.]

[Sec. 12391.18.] **Sec. 18. Effective date.** The effective date of this chapter shall be the first day of the first month following the month in which the act enacting this chapter is approved." [L. 1945, c. 273, pt. of s. 1.]

Section 2. Section 12022 of the Revised Laws of Hawaii 1945 is hereby amended, effective on the effective date of chapter 301A, to read as follows:

"Sec. 12022. Creditors' claims; advertisement; barred when. Immediately after the appointment of any executor or administrator of any estate, he shall advertise in such newspaper or

newspapers as the court shall direct, once in each of four successive weeks, a notice directed to all creditors of the deceased, and if the deceased was married then directed also to all creditors of the community of which the deceased was a member, to present their claim with proper vouchers or duly authenticated copies thereof, even if the claim is secured by mortgage on real estate, to him, either at his residence or at his place of business or at such other place as he may designate, within four (4) months from the first day of publication. And if such claims be not presented within four (4) months from the first day of publication of the notice, they shall be forever barred and the executor or administrator shall not be authorized to pay them. Any claim otherwise proper shall be allowed, as a claim against the deceased or the community of which the deceased was a member or both, in accordance with law, notwithstanding that the claim may fail to designate or may improperly designate the obligor or obligors on the claim." [L. 1898, c. 37, s. 1; am. L. 1917, c. 188, s. 1; R. L. 1925, s. 2489; am. L. 1929, c. 28, s. 1; R. L. 1935, s. 4785; R. L. 1945, s. 12022; am. L. 1945, c. 273, s. 2.]

Section 3. Section 12100 of the Revised Laws of Hawaii 1945 is hereby amended by adding the following sentence at the end thereof:

"The interests to which the wife is entitled in accordance with this section in the husband's real and personal property shall not apply to, and nothing in this section shall be deemed to give to the wife any interest in, the husband's interest in community property, real or personal." [C. C. 1859, s. 1299; R. L. 1935, s. 4830; am. L. 1939, c. 33, s. 1; R. L. 1945, s. 12100; am. L. 1945, c. 273, s. 3.]

[Note: For the complete section see following D-191, Act 199, ante, page 297.]

Section 4. Section 12115 of the Revised Laws of Hawaii 1945 is hereby amended by adding the following sentence at the end thereof:

"The interests to which the husband is entitled in accordance with this section in the wife's real and personal property shall not apply to, and nothing in this section shall be deemed to give the husband any interest in, the wife's interest in community property, real or personal." [L. 1888, c. 11, s. 7; R. L. 1925, s. 3000; am. L. 1933, c. 68, s. 1; R. L. 1935, s. 4845; am. L. 1939, c. 33, s. 4; R. L. 1945, s. 12115; am. L. 1945, c. 212, s. 2 and c. 273, s. 4.]

[See section 12115 in full under Act 212, D-192, ante, pp. 298-299.]

Section 5. Section 12233 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12233. Property of wife on divorce from husband. When a divorce is decreed for the adultery, or other offense amounting thereto, of the husband, and the wife shall be the owner of real estate, or have in her possession any personal property given to her by her husband, acquired by her own industry, given her by devise or otherwise, or to which she may be entitled by the decease of any relative, all such real and personal property shall be her sole and absolute property; **provided**, however, that this section shall not apply to community property." [C. C. 1859, s. 1330; R. L. 1945, s. 12233; am. L. 1945, c. 273, s. 5.]

Section 6. Section 12372 of the Revised Laws of Hawaii 1945 is hereby amended, effective on the effective date of chapter 301A, to read as follows:

"Sec. 12372. Husband's liabilities. A husband, whether married in this Territory or in some other jurisdiction, and residing in this, shall be bound to maintain, provide for, and support his wife during marriage, in the same style and manner in which he supports himself; and shall be liable for all debts contracted by his wife for necessities for herself or family during marriage. The husband shall be personally responsible for all the tortious acts of his wife done by her by or with his authority or consent, and for none other." [L. 1888, c. 11, pt. of s. 7; R. L. 1925, pt. of s. 3000; am. L. 1933, c. 68, s. 1; R. L. 1935, s. 4651; R. L. 1945, s. 12372; am. L. 1945, c. 254, s. 3 and c. 273, s. 6.]

Section 7. Sections 12367, 12373, 12374 and 12375 of the Revised Laws of Hawaii 1945 are hereby repealed, effective on the effective date of chapter 301A.

Section 8. If any portion of this Act, or of chapter 301A as enacted by this Act, or if the application of this Act or any portion thereof or of said chapter 301A or any portion thereof to any person or circumstance, or to any property or income, is held unconstitutional or invalid, the validity of the remainder of this Act or of said chapter 301A, or the application of this Act or of such portion thereof or of said chapter 301A or of such portion thereof to other persons or circumstances or to other property or income, shall not be affected.

Section 9. This Act shall take effect upon its approval.
(Approved May 22, 1945.) **H.B. 474, Act 273.**

Title 34. GUARDIANS AND TRUSTEES.

Chapter 305. GUARDIANS AND WARDS.

Series D-202: ACT 30

An Act to Provide for the Appointment of a Conservator, Under Certain Circumstances, for Property of Certain Absent Persons.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 12519.01. Conservator for absentee, when.]:

Section 1. Whenever a person, serving in or with the armed forces of the United States, or serving as a merchant seaman, or outside the limits of the continental United States and the Territory of Hawaii by permission, assignment, or direction of any department or official of the United States in connection with any activity pertaining to or connected with the prosecution of any war in which the United States is then engaged, has been reported or listed as missing, or missing in action, or interned in a neutral country, or beleaguered, besieged, or captured by an enemy, (which person is hereinafter referred to as an absentee), has an interest in any form of property in this Territory or is a legal resident of this Territory and has not provided an adequate power of attorney authorizing another to act in his behalf in regard to such property or interest, then the circuit judge at chambers of the circuit of such absentee's legal domicile or of the circuit where such property is situated, upon sworn petition alleging the foregoing facts and showing the necessity for providing care of the property of such absentee made by any person who would have an interest in the property of the absentee were such absentee deceased, after publication of notice of such petition in the manner required by section 12012 of the Revised Laws of Hawaii 1945, and upon good cause being shown, may, after finding the facts to be as aforesaid, appoint a conservator to take charge of the absentee's estate, under the supervision of and subject to the further orders of the judge. [L. 1945, c. 30, s. 1.]

[Sec. 12519.02. Qualification, powers of conservator.]:

Section 2. The circuit judge at chambers shall have full discretionary authority to appoint any suitable person as such conservator and may require such conservator to post an adequate surety bond and to make such reports as the judge may deem necessary. The conservator shall have the same powers and duties as a guardian appointed under the provisions of chapter 305 of the Revised Laws of Hawaii 1945 and shall be considered as an officer or arm of the court. [L. 1945, c. 30, s. 2.]

[Sec. 12519.03. Termination.]:

Section 3. At any time upon sworn petition of the person adjudged an absentee, or of an attorney-in-fact acting under an adequate power of attorney granted by the absentee, the circuit judge at chambers shall, upon proof being made of the existence of such person and that he is no longer an absentee, or of the existence of such power of attorney, direct the termination of the conservatorship and the transfer of all property held thereunder to the absentee or to the designated attorney-in-fact. Likewise, if, at any time subsequent to the appointment of a conservator, it shall appear that the absentee has died and an executor or administrator has been appointed for his estate, the circuit judge at chambers shall direct the termination of the conservatorship and the transfer of all property of the deceased absentee held thereunder to such executor or administrator. [L. 1945, c. 30, s. 3.]

Section 4. This Act shall take effect upon its approval.
(Approved April 23, 1945.) **H.B. 310, Act 30.**

Series D-203: ACT 211

An Act to Amend Section 12540 of the Revised Laws of Hawaii 1945, Relating to Sale of Real Property by Guardians.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12540 of the Revised Laws of Hawaii 1945 is hereby amended by striking out the words "one thousand dollars" in the first and fourth lines thereof and substituting therefor the words "two thousand five hundred dollars".

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) **S.B. 217, Act 211.**

Chapter 306. TRUST AND TRUSTEES; ACCOUNTS.

Series D-204: ACT 186

An Act to Amend Section 12574 of the Revised Laws of Hawaii 1945, Relating to Accounts of Trustees and Guardians.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12574 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first sentence thereof to read as follows:

"Sec. 12574. Trustees and guardians to file. Every guardian and trustee acting under appointment of any court or under any appointment requiring the approval of any court, shall, except in cases where the prior trustee, if any, was not required by statute or the instrument creating the trust or appointing such trustee to file such an account, file annually with the court having jurisdiction thereof an account showing in detail all his receipts and disbursements, together with a full and detailed inventory of all property in his possession or under his control; provided that the court in cases in which it deems it advisable in the interests of the beneficiaries may permit the accounts to be filed biennially or triennially instead of annually or, if they are filed annually, may permit them to accumulate to be passed upon biennially or triennially; and provided further that the court on its own examination or that of its clerk, shall, without reference to a master, pass upon the accounts in cases in which the annual income does not exceed one thousand dollars, except in the case of a final account when the court may refer the same to a master, irrespective of the amount of the annual income, if for any reason it is deemed proper or necessary."

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 130, Act 186.

Note: The rest of § 12574 reads:

"If any such guardian or trustee shall fail to file his account as herein required, it shall be the duty of the clerk of the court in which such guardian or trustee is required to file such account, to notify him promptly of such failure, and, if the guardian or trustee fails to file his account within thirty days after such notification, he shall be cited to appear before the court and be required to show cause why he should not be punished for contempt of court as provided by chapter 244 and he shall be subject to all of the penalties in said chapter provided. The court may also, in its discretion, remove any such guardian or trustee.

"Unless otherwise required by the instrument creating the trust, nothing herein shall be construed to require the filing of an annual account by a trustee or trustees appointed by the court as additional trustee or trustees to serve with or in the place and stead of a trustee or trustees appointed in the instrument creating a trust, nor by a trustee whose appointment is made in accordance with or pursuant to the provisions of the instrument creating the trust where such appointment has been confirmed by any court in proceedings brought to secure the confirmation or approval thereof. This provision shall apply to trusts existing May 13, 1935, and appointments made thereunder as well as to future trusts. [L. 1915, c. 101, s. 1; R. L. 1925, s. 2475; am. L. 1929, c. 169, s. 1; am. L. 1933-34, c. 38, s. 1; R. L. 1935, s. 4713; am. L. 1935, c. 154, s. 1 and pt. of s. 2; R. L. 1945, s. 12574; am. L. 1945, c. 186, s. 1.]"

[Note: As to masters, see § 457, amended herein by Act 95, A-10, ante.]

Title 35. LAND COURT, ETC.

Chapter 307. LAND COURT REGISTRATION.

Series D-205: ACT 255

AM. '49

Sr. A.

An Act to Amend Sections 12641, 12698 and 12705 of Chapter 307 of the Revised Laws of Hawaii 1945, Relating to the Tenure of a Holder of a Certificate of Title Under the Land Court Registration System, Encumbrances Thereon, and Fees in Connection with Registration.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12641 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12641. **Tenure of holder of certificate of title.** Every applicant receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value and in good faith, shall hold the same free from all encumbrances except those noted on the certificate in the order of priority of recordation, and any of the following encumbrances which may be subsisting, namely:

First: Liens, claims or rights arising or existing under the laws or Constitution of the United States, which the statutes of this Territory cannot require to appear of record in the registry.

Second: Unpaid real property taxes assessed against the land and improvements covered by the certificate of title, with interest, penalties, and other additions to the tax, which, unless a notice is filed and registered as provided by section 5167, shall be for the period of three years from and after January 1 of the tax year involved, and if proceedings for the enforcement or foreclosure of the tax lien be brought within said period, until the termination of said proceedings or the completion of the tax sale.

Third: Any public highway, or any private way laid out under the provisions of law, when the certificate of title does not state that the boundary of such way has been determined.

Fourth: Any lease, coupled with occupancy, for a term not exceeding one year; **provided**, however, that the priority of such unrecorded lease shall attach only at the date of the commencement of such unrecorded lease and expire one year from said date or sooner if so expressed.

Fifth: Any liability to assessments for betterments, or statutory liability which may attach to land as a lien prior to or independent of, the recording or registering of any paper; **provided**, however, that the priority of any such liability and the lien therefor shall cease and terminate three years after the liability first accrues unless notice thereof, signed by the officer charged with collection of such assessments or liability, setting forth the amount claimed, the date of accrual and the land affected, be registered and noted on the certificate of title within such three year period; **provided**, further, that if there are easements or other rights, appurtenant to a parcel of registered land which for any reason have failed to be registered, such easements or rights shall remain so appurtenant notwithstanding such failure, and shall be held to pass with the land until cut off or extinguished by the registration of the servient estate, or in any other manner.

Sixth: The possibility of reversal or vacation of the decree of registration upon writ of error issued within ninety days from the entry of such decree of registration." [L. 1903, c. 56, s. 39; am. L. 1909, c. 139, s. 1; R. L. 1925, s. 3229; am. imp. L. 1925, c. 192, s. 14; am. L. 1931, c. 222, s. 1; am. imp. L. 1932, 2d, c. 140, s. 65; R. L. 1945, s. 12641; am. L. 1945, c. 255, s. 1.]

[Sec. 12661, amended by Act 241, D-206, post.]

Section 2. Section 12698 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12698. Fees required for protection against loss or damage. There shall be paid to the registrar upon the original registration of land under this chapter, under absolute or qualified ownership, one-tenth of one per centum of the assessed value of the land and improvements on the basis of the last assessment for taxation. Where the land sought to be registered was not separately assessed during the preceding calendar year, the value of the same shall be as found by the court as of January 1, of the year in which the application was filed. The court may appoint one or more appraisers at such rates of pay as he shall deem just, the cost to be taxed against the applicant.

All moneys received by the registrar under this section shall be paid to the treasurer of the Territory as a realization to the general fund." [L. 1903, c. 56, s. 94; am. L. 1913, c. 21, s. 2; R. L. 1925, s. 3284; am. L. 1927, c. 258, s. 10; am. L. 1932, 2d, c. 33, s. 1; am. L. 1933, c. 25, s. 1; R. L. 1945, s. 12698; am. L. 1945, c. 255, s. 2.]

Section 3. Section 12705 of the Revised Laws of Hawaii 1945 is hereby amended by amending the fourth item of the schedule of fees therein, being the second item on page 1619 of the Revised Laws of Hawaii 1945, to read as follows:

"For examining title, ten dollars and two-tenths of one per centum of the assessed value of the land and improvements on the basis of the last assessment for taxation."

[Note: Sec. 12705 is amended in toto by Act 241, D-206, immediately following this Act and inclusive of this amendment.]

Section 4. This Act shall take effect upon its approval; but in view of the amendments in section 1 hereof to section 12641 of the Revised Laws of Hawaii 1945, as to the paragraph beginning "Second" and the paragraph beginning "Fifth", if the proper officer shall file and register a notice of an encumbrance, in accordance with the requirements of said section 12641 or section 5167 of the Revised Laws of Hawaii 1945, as the case may be, as said sections are amended by the session laws of 1945, on or before October 31, 1945, such notice shall have the same effect as if filed and registered within the three year period specified by said sections as so amended, and shall have the effect of extending the encumbrance for the maximum period allowed by the applicable law, as amended by the 1945 Session Laws.

(Approved May 21, 1945.) S.B. 145, Act 255.

Series D-206: ACT 241

An Act Relating to Recordation and Registration in the Bureau of Conveyances and the Office of the Assistant Registrar of the Land Court.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12661 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the last paragraph thereof.

Section 2. Section 12705 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 12705. Schedule. Except where otherwise provided the fees payable under this chapter shall be as follows:

1. For every application to bring land under this chapter, including indexing and recording the same, and transmitting to registrar, when filed with assistant registrar, three dollars.

2. For every plan filed, one dollar.

3. For indexing any instrument recorded while application for registration is pending, twenty-five cents.

4. For examining title, ten dollars and two-tenths of one per centum of the assessed value of the land and improvements on the basis of the last assessment for taxation.

5. For checking survey and map as to form and mathematical correctness but not on the ground, one dollar and fifty cents an hour.

6. For approving subdivision of registered land, and for checking same as to form and mathematical correctness but not on the ground, one dollar and fifty cents an hour.

7. For all services by a sheriff or other police officer under this chapter, the same fees as are now provided by law for like services.

8. For each instrument affecting a title not reported in applicant's filed abstract of title, two dollars.

9. For filing an amended application, one dollar.

10. For each notice by publication, twenty-five cents.

11. For entering any general default, one dollar.

12. For filing any answer, one dollar, to be paid by the party filing the same.

13. For every subpoena, one dollar.

14. For swearing each witness, ten cents.

15. For entering any discontinuance, one dollar.

16. For filing appeal and notice of appeal, one dollar.

17. For entry of order dismissing application, or decree of registration, and sending memorandum to assistant registrar, one dollar.

18. For copy of decree of registration, one dollar.

19. For entry of original certificate of title and issuing owner's duplicate certificate, or for making and entering a new certificate of title including issue of one owner's duplicate, five dollars if contained within four pages. For each additional page or fraction thereof, one dollar.

20. For each owner's duplicate certificate after the first, two dollars if contained within four pages. For each additional page or fraction thereof, one dollar.

21. For the registration of every instrument, including entering, indexing, filing, attesting registration, and making and attesting memorandum on certificates not in excess of four, two dollars and fifty cents, except where herein otherwise provided, and fifty cents for each additional memorandum on certificates in excess of four required by any one instrument.

22. For the certification of a copy of any instrument, the same fees as are provided by section 12728.

23. For filing and registering an adverse claim, three dollars.

24. For entering statement of change of residence and post office address, including indorsing and attesting same on a duplicate certificate, one dollar.

25. For entering any note in the entry book or in the registration book, one dollar.

26. For registration of a suggestion of death, fact of marriage, order for subdivision or notice of issue of an order in bankruptcy, one dollar.

27. For filing any petition after original registration, one dollar.

28. For filing any order after original registration, one dollar.

29. In all cases not expressly provided for by law the fees of all public officers for any official duty or service under this chapter shall be at a rate established by the court.

30. For any application made by or in the name of the Territory, or any political subdivision thereof, any proceedings had upon such application or any dealing with registered land by the Territory, or any political subdivision thereof, as owner, no fees shall be charged." [L. 1903, c. 56, s. 110; am. L. 1907, c. 43, s. 5; am. L. 1915, c. 61, s. 1; am. L. 1921, c. 156, ss. 1, 2; R. L. 1925, s. 3300; am. L. 1927, c. 258, s. 11; am. L. 1929, c. 75, s. 1; am. L. 1933, c. 21, s. 1; R. L. 1935, s. 5105; R. L. 1945, s. 12705; am. L. 1945, c. 241, s. 2 and c. 255, s. 3.]

Section 3. Section 12730 of the Revised Laws of Hawaii 1945 is hereby amended by adding a new paragraph thereto, to be inserted between the first and second paragraphs thereof, and to read as follows:

"The registrar or his deputy may refuse to accept for record any document of a size larger than 8½ inches by 13 inches, or which contains a schedule or inventory sheet in excess of such size."

Section 4. This Act shall take effect upon approval.
(Approved May 19, 1945.) S.B. 370, Act 241.

Chapter 308. BUREAU OF CONVEYANCES.

Series D-207: ACT 84

An Act to Amend Chapter 308 of the Revised Laws of Hawaii 1945, so as to Provide for the Recording of Instruments Made by Certain Territorial Officers Without Acknowledgments.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12733 of the Revised Laws of Hawaii 1945 is hereby amended by deleting from the second line thereof the words and figures "12742 and 12743", and by inserting in lieu thereof the following:

"12742, 12743, and 12743.01".

Section 2. Chapter 308 of the Revised Laws of Hawaii 1945 is hereby amended by inserting therein a new section to be numbered 12743.01 and to read as follows:

"Sec. 12743.01. Signatures of certain territorial officers, acknowledgments not required. In the case of an official signature entitled to be judicially noticed pursuant to section 9897, such signature shall suffice to show due execution by the officer so signing the instrument and such officer shall not be required to acknowledge the instrument in order to entitle it to be recorded." [L. 1945, c. 84, s. 2.]

Section 3. This Act shall take effect upon its approval.
(Approved May 3, 1945.) H.B. 613, Act 84.

Series D-208: ACT 53

An Act Relating to Notarial Proof or Acknowledgment.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 12739 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto the following paragraph:

"The proof or acknowledgment of any deed or other instrument required to be proved or acknowledged in order to entitle the same to be recorded or read in evidence, when made by any person in the armed forces of the United States, or by any person without the United States, may be made before any officer of the armed forces authorized by Congress to exercise the powers of a notary public. The signature without seal of any officer acting as such notary public shall be prima facie evidence of his authority."

Section 2. This Act shall take effect upon its approval.

(Approved April 28, 1945.) H.B. 309, Act 53.

Note: As so amended, § 12739 reads:

"Sec. 12739. Acknowledgments without the United States. The proof or acknowledgment of any deed or other instrument required to be proved or acknowledged in order to entitle the same to be recorded or read in evidence, when made by any person without the United States may be made before any officer now authorized thereto by the laws of the Territory, or before any minister, consul, vice-consul, charge d'affaires, consular or commercial agent, vice-consular or vice-commercial agent of the United States, resident in any foreign country or port, and when certified by him under his seal of office it shall be entitled to be recorded in the Territory, and may be read in evidence in any court of the Territory, in the same manner and with like effect as if duly recorded or acknowledged within the Territory.

The proof or acknowledgment of any deed or other instrument required to be proved or acknowledged in order to entitle the same to be recorded or read in evidence, when made by any person in the armed forces of the United States, or by any person without the United States, may be made before any officer of the armed forces authorized by Congress to exercise the powers of a notary public. The signature without seal of any officer acting as such notary public shall be prima facie evidence of his authority. [L. 1909, c. 69, s. 5; R. L. 1945, s. 12739; am. L. 1945, c. 53, s. 1.]"

[Compare, proof of death of missing persons, Act 148, D-171, ante.]

Series D-209: ACT 54

An Act to Provide for the Translation of Certain Hawaiian Records in the Bureau of Conveyances of the Territory of Hawaii and Provide That Such Translations Shall Constitute Prima Facie Evidence of the English Meaning of Said Records.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 12761.01. Translation of Hawaiian documents, recording.]

Section 1. The registrar of conveyances of the Territory is hereby authorized to appoint such number of qualified translators at such compensation as may be provided for by appropriations of the legislature from time to time for the purpose of translating into English conveyances and other instruments filed or recorded in the bureau of conveyances of the Territory of Hawaii, including, but not limited to, conveyances and other instruments affecting title to property. Such translators shall be persons expert in the knowledge and usage of both the Hawaiian and the English languages. Such translations into English shall be recorded in the bureau of conveyances in books bearing the same book and page numbers as the Hawaiian instruments from which they have been translated and any reference in conveyances or otherwise to such documents by book and page number shall be deemed to refer equally to the Hawaiian and the English versions of such documents. Each such English translation and copies thereof duly certified by the registrar of conveyances may be used in evidence in the same manner as the original instrument in the Hawaiian language and shall constitute prima facie evidence as to the true meaning and intent of the Hawaiian instrument from which it shall have been translated. [L. 1945, c. 54, s. 1.]

Section 2. This Act shall take effect upon its approval.
(Approved April 28, 1945.) H.B. 601, Act 54.

PART E: MISCELLANY-DEFENSE; APPENDIX.

Chapter 323. VETERANS, ETC.

Series E-210: ACT 198

An Act Amending Section 13106 of the Revised Laws of Hawaii 1945 Relating to the Payment by the Territory of Funeral Expenses in Connection with the Burial of Veterans.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The first paragraph of section 13106 of the Revised Laws of Hawaii 1945 is hereby amended by deleting therefrom the words "the manager, United States Veterans Administration." appearing at the end of said paragraph and inserting in lieu thereof the following "any officer or employee of the board of health who shall be designated by the board of health to sign such vouchers."

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 320, Act 198.

Note: As so amended, § 13106 reads:

"Sec. 13106. Funeral expenses to be paid by Territory. The treasurer of the Territory is authorized and directed to pay such sums of money, as from time to time may be necessary to insure the purposes of this chapter, for the funeral expenses of any honorably discharged veteran of the armed forces of the United States who served during a war in which the United States was engaged, upon warrants issued by the auditor of the Territory, upon presentation of vouchers signed by any officer or employee of the board of health who shall be designated by the board of health to sign such vouchers.

Such expenses shall, however, in no individual case, exceed, including any amount paid for funeral expenses by the federal government, the sum of one hundred and twenty-five dollars. [L. 1943, c. 71, s. 2; R. L. 1945, s. 13106; am. L. 1945, c. 198.]"

Series E-211: ACT 150

An Act Establishing a Territorial Council on Veterans' Affairs, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 13108.01.] Section 1. Definitions. Unless the context clearly required a different meaning, when used in this Act:

"Veteran" shall mean any person who shall have served in any of the armed services of the United States in any war or

campaign in which the United States has been engaged, and who shall have been honorably discharged from such service because of disability or otherwise.

"Dependent" of a veteran shall mean any person who received from a veteran his principal support prior to entry of such veteran into any of the armed services. It shall include a dependent of a person currently serving in such service and a former dependent of a deceased veteran and of a person who has died in such service.

"Family" of a veteran shall mean members of the immediate family of such veteran, or of a person currently serving in any of the armed services, or of a person who has died in such service, or of a deceased veteran.

"Council" shall mean the Territorial Council on Veterans' Affairs appointed pursuant to this Act.

"Committee" shall mean the county committee of the Territorial Council on Veterans' Affairs. [L. 1945, c. 150, s. 1.]

[Sec. 13108.02.] Section 2. [Council.] There is hereby created a Territorial Council on Veterans' Affairs which shall consist of fifteen members, who shall be appointed and may be removed by the governor in the manner prescribed by section 80 of the Organic Act. Of such members, two shall be appointed from each of the counties of Hawaii, Maui and Kauai, and the remaining members shall be appointed from residents of the Territory at large. The majority of members shall be veterans or members of families of veterans. One of the members appointed from residents of the Territory at large shall be designated in his appointment as chairman of the council. The members shall hold office for four years or until their successors are appointed and qualified; but of the first members appointed four shall be appointed for a term to expire on June 30, 1946, four for a term to expire on June 30, 1947, four for a term to expire on June 30, 1948, and three for a term to expire on June 30, 1949. No two members appointed from any of the counties of Hawaii, Maui or Kauai shall be appointed for terms expiring the same year. Any appointment to a vacancy caused by the death, resignation, or inability to act, of any member shall be for the unexpired term of such member. The members shall serve without pay, but they shall be entitled to be reimbursed for actual and necessary expenses incurred by them in discharging their official duties under this Act. [L. 1945, c. 150, s. 2.]

[Sec. 13108.03.] Section 3. Conditions of membership. No member during his term of office shall serve as an officer or committee member of any political party organization, or present himself as a candidate for election to any public office. This

provision shall be enforced by the governor by the removal of the disqualified member whenever such disqualification shall appear. [L. 1945, c. 150, s. 3.]

[Sec. 13108.04.] Section 4. **Duties of the Council.** The council shall be responsible for the conduct or supervision of all activities provided for by this Act and for the formulation and adoption of all policies, rules and regulations for the administration of this Act. [L. 1945, c. 150, s. 4.]

[Sec. 13108.05.] Section 5. **Director and employees.** The council shall have the power to appoint or employ such personnel as may be necessary, including a director who shall serve as the executive administrative officer of the council. The council shall define the powers and duties of the employees constituting such personnel. In the employment or appointment of such employees, other than the director, first preference shall be given to veterans who have been adjudicated as "disabled" by the Veterans' Administration, and second preference shall be given to veterans not so disabled. Employees shall hold their respective positions subject to the pleasure of the council. Employees shall be exempt from civil service requirements, but shall be subject to classification requirements. [L. 1945, c. 150, s. 5.]

[Sec. 13108.06.] Section 6. **Activities of the council.** Except as otherwise provided by law, the council shall:

(1) Maintain or cause to be maintained an agency, which shall be designated as "Veterans' Affairs", under the immediate direction of the director, subject to the control and supervision of the council, which agency shall serve as a center to which veterans, their families and dependents may come for information, counsel, aid and assistance, and by which they may be directed or referred to any agency in the community whose function it is, by law or otherwise, to provide the services, assistance, or benefits which in each instance appear necessary or appropriate. Agencies to which any referrals may be made shall include, but are not limited to, departments and divisions of the federal and territorial governments, veterans' organizations, and so-called "private" social agencies.

(2) Assume the initiative, in cooperation with other agencies in the community, for coordinating all services now available, and which hereafter may become available, for the use and benefit of veterans, their families and dependents, to the end that maximum effectiveness of such services may be realized and overlapping and duplication of effort as between agencies may be minimized.

(3) Assemble, analyze, compile and disseminate factual up-to-date information with respect to (a) benefits, rights and services of whatever nature to which veterans, their families and dependents are entitled or which may be available to them, (b) the structure, functions, area of service and other pertinent information regarding each agency and organization participating in the veterans' assistance program in the Territory.

(4) Cooperate with federal departments and other agencies which by law have responsibility for administration of rights and benefits granted by the federal government to veterans, their families and dependents.

(5) As soon as may be after the close of each fiscal year, compile and submit to the governor, for such use or distribution as he may deem appropriate, a comprehensive report of the activities and operations of the council and of all disbursements and expenditures authorized by it hereunder. [L. 1945, c. 150, s. 6.]

[Sec. 13108.07.] Section 7. **Appropriations; expenditures.** There is hereby appropriated the sum of two hundred thousand dollars out of the general fund of the Territory to defray the necessary expenses of the council for the biennium beginning July 1, 1945, and ending June 30, 1947. [L. 1945, c. 150, s. 7.]

[Sec. 13108.08]. Section 8. **County committees.** The council is hereby authorized to appoint voluntary county committees on veterans' affairs in each of the counties of Hawaii, Maui and Kauai, with such members as the council in its discretion may deem appropriate in each instance. One of the council members from each such county shall be the chairman of his county committee. To the extent that the council determines such action to be necessary and advisable, one staff assistant may be employed by the council to serve with each county committee. [L. 1945, c. 150, s. 8.]

[Sec. 13108.09.] Section 9. **Separability of provisions.** If any provision of this Act, or the application thereof to any persons or circumstances, is held invalid, the remainder of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 10. **Effective date.** Those provisions of this Act providing for or relating to the creation of the council and committees and the appointment of members thereof shall take effect upon the approval of this Act. The remainder of the Act shall take effect upon July 1, 1945.

(Approved May 14, 1945.) S.B. 71, Act 150.

Series E-212: ACT 275

An Act to Amend Chapter 324 of the Revised Laws of Hawaii 1945, Known as the Hawaii Defense Act; Relating to Injunction Proceedings for the Enforcement of the Provisions of Said Act, Intervention, and Penalties; Amending Sections 13125 and 13130 Thereof with Respect to Public Hearings on Rules and Regulations; Amending Section 13132 Thereof Relating to Appropriations; Repealing Section 13133 Thereof Relating to Certain County Agencies; and Making an Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 324 of the Revised Laws of Hawaii 1945 is hereby amended by inserting therein a new section to be numbered 13127.01, to read as follows:

"Sec. 13127.01. Enforcement by injunction proceedings; interventions. (a) Whenever in the judgment of the governor any person has engaged or is about to engage in any act or practice which constitutes or will constitute a violation of any rule or regulation of the governor issued under this chapter, the governor or his authorized representative may make application to the appropriate court in the name of the Territory for an order enjoining said acts or practices, or for such other order as will enforce compliance with such provisions, and upon a showing by the governor or his authorized representative in such manner and form as is usual in injunction cases, that such person has engaged or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other appropriate order shall be granted without bond.

(b) The governor or his authorized representative may intervene in the name of the Territory in any action or proceeding wherein a party asserts a right or relies for ground of relief or defense upon this chapter or upon any rule or regulation of the governor issued hereunder, or wherein, in the judgment of the governor, there is an issue to be presented which involves enforcement of the provisions of this chapter or said rules or regulations." [L. 1945. c. 275, s. 1.]

Section 2. Section 13134 of the Revised Laws of Hawaii 1945 is hereby amended by amending the first paragraph thereof to read as follows:

"Sec. 13134. Misdemeanors. Any person violating any rule or regulation of the governor prescribed and promulgated pur-

suant to the provisions of this chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or By imprisonment not exceeding one year, or by both such fine and imprisonment."

Note: The rest of § 13134 reads:

"Any person violating any effective order made under the provisions of this chapter fixing the maximum price of any essential material, or selling any such material at a price greater than that fixed by any such effective order, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars or by imprisonment not exceeding ninety days, or by both such fine and imprisonment. [L. Sp. 1941, c. 24, s. 22; R. L. 1945, s. 13134; am. L. 1945, c. 275, s. 2.]"

Section 3. Section 13125 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the figures "466" from the eighteenth line thereof, being the second line from the bottom of page 1665, and by inserting in lieu thereof "467".

Section 4. Section 13130 of the Revised Laws of Hawaii 1945 is hereby amended by inserting in the first paragraph thereof a new sentence, following the first sentence, to read as follows:

"The provisions of section 466 requiring public hearings shall apply to such rules and regulations of the governor, except in cases of extraordinary emergencies after the governor shall have advised with the defense council; **provided**, that notwithstanding the provisions of clause (d) of section 13114 (3), the public hearings on such rules and regulations may, at the governor's discretion, be held by such person as the governor may thereunto authorize, who shall make a report thereon to the governor."

Note: As so amended, the first paragraph of § 13130 reads:

"**Sec. 13130. Rules and regulations.** For the purpose of carrying out any provision of this chapter, the governor shall have power to prescribe rules and regulations having the force and effect of law. The provisions of section 466 requiring public hearings shall apply to such rules and regulations of the governor, except in cases of extraordinary emergencies after the governor shall have advised with the defense council: **provided**, that notwithstanding the provisions of clause (d) of section 13114 (3), the public hearings on such rules and regulations may, at the governor's discretion, be held by such person as the governor may thereunto authorize, who shall make a report thereon to the governor. Rules and regulations prescribed by the governor under the powers in him vested during a defense period shall be effective during a defense period and for a reasonable time thereafter." (The two remaining paragraphs of § 13130 are unamended.)

Section 5. Section 13132 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(1) By deleting subsections (b), (c), and (d) thereof.

(2) By amending subsection (e) thereof to read as follows:

"(e) Whenever the governor shall find that the appropriation for the performance of any essential function of the territorial government is insufficient, due to emergency conditions, he may make an additional allotment for such purposes out of moneys appropriated for the purposes of this chapter."

Note: As so amended § 13132 reads:

"Sec. 13132. Appropriations. (a) The sum of one million five hundred thousand dollars appropriated upon the original enactment of this section shall remain in effect as an appropriation out of the general fund of the Territory as to the unexpended balance thereof for any and all of the purposes of this chapter.

(Paragraphs (b) (c) and (d) deleted.)

(e) Whenever the governor shall find that the appropriation for the performance of any essential function of the territorial government is insufficient, due to emergency conditions, he may make an additional allotment for such purposes out of moneys appropriated for the purposes of this chapter.

(f) Any order by the governor made pursuant to this section may be amended or revoked.

(g) The governor may allot any moneys appropriated by this chapter, to any agency, officer, or employee, created, appointed or employed under the provisions of this chapter, or to any government agency, officer, or employee, territorial or county, to whom powers or duties have been delegated pursuant to this chapter, to be expended in carrying out the provisions of this chapter, and in the case of county agencies, officers, or employees, to order such allotment paid over to be held, disbursed and accounted for as other county funds or as the governor shall provide.

(h) (1). Any sums realized under the provisions of this chapter from the sale of property by the government, or from work done, services rendered, or accommodations or facilities furnished by the government, are hereby reappropriated for the purposes of this chapter and may be expended or allotted in the same manner as other appropriations made by this chapter.

(2) Any sums realized from insurance of public property, the premiums for which have been paid out of money appropriated for the purposes of this chapter, shall be deposited in a special fund in the territorial treasury and expended for the repair or replacement of the insured property by the officer or officers charged by law with the duty of making such repairs and replacements, or by such other officer, person or agency as shall be designated by the governor. The surplus thereof, if any, shall be expended in like manner for the repair or replacement of other insured public property, and any net surplus which may remain shall become a general fund realization.

(i) Any appropriation made under this chapter may be expended notwithstanding the existence of a specific or other appropriation for the same or a like purpose, and without prejudice to the expenditure of such other appropriation.

(j) The powers granted by this section shall be in addition to, and not restrictive of, the powers granted by any other section. [L. Sp. 1941, c. 24, s. 20; am. L. 1943, c. 5, s. 3 (19); c. 96, s. 1 (a)-(c); R. L. 1945, s. 13132; am. L. 1945, c. 275, s. 5.]”

Section 6. Section 13133 of the Revised Laws of Hawaii 1945 is hereby repealed.

Section 7. There is hereby appropriated, in addition to any other amounts of money appropriated or available for any of the same purposes by any other act, the sum of \$850,000.00, which sum shall be expendable for any of the purposes of the Hawaii Defense Act, as the same now exists, or as it may hereafter be amended, and which appropriation shall be subject to all of the applicable provisions of said Hawaii Defense Act, as the same now exists or may hereafter be amended.

Section 8. Sections 1 to 6 inclusive of this Act shall take effect upon its approval. Section 7 of this Act shall take effect upon July 1, 1945 if the Congress of the United States shall not have continued in effect the appropriation from which civilian defense activities in Hawaii heretofore have been financed; otherwise section 7 of this Act shall not take effect.

(Approved May 24, 1945.) S.B. 159, Act 275.

Series E-213: ACT 13

An Act Extending the Bonus Provided by Hawaii Defense Act Rules 88, 107, 113 and 114, to Government Officers and Employees, Until June 30, 1945, with Certain Changes, and Making Appropriations Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The bonus provided for government employees (which term as used herein includes both officers and employees) by Hawaii Defense Act Rules 88, 107, 113 and 114, is hereby continued in effect until June 30, 1945, and for said purposes said Rules 88, 107, 113 and 114, as the same now exist, shall remain in effect until said date, except as extended by this Act and except that all district magistrates shall receive the full fifty-dollar monthly bonus.

Section 2. The sum of \$800,000.00 is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, for the purpose of meeting said bonus payments hereby authorized, for employees of the Territory and of territorial agencies, the same to be allocated by the director of the bureau of the budget to the respective departments and agencies from time to time as required.

Section 3. The following additional sums are hereby appropriated from the general revenues of the Territory, not otherwise appropriated, to be paid by the territorial treasurer upon warrants of the territorial auditor, who, subject to the provision in respect of the county of Hawaii hereinafter contained, is hereby directed to issue the same, to the following counties to be deposited in their respective general funds for the purpose of enabling said counties to meet the bonus for employees of or paid by said respective counties authorized by this Act, namely:

| | | |
|------------------------------------|------------|--------------|
| To the city and county of Honolulu | | \$300,000.00 |
| To the county of Hawaii | | |
| For employees other than per diem | | |
| employees | 100,000.00 | |
| For per diem employees, subject to | | |
| the provisions of the next para- | | |
| graphs | 47,000.00 | 147,000.00 |
| To the county of Maui | | 102,500.00 |
| To the county of Kauai | | 75,500.00 |

In respect of \$47,000.00 of the sum allocated to the county of Hawaii, the warrant of the auditor shall issue only for the same or for any part thereof when it shall be made to appear to said auditor by satisfactory evidence that such sum or any part thereof is necessary to cover a bonus for per diem employees of the county of Hawaii on a comparable basis with the bonus paid like employees by the other counties, and such bonus is hereby authorized.

It is provided, however, that prior to the 1st day of August, 1945, the county of Hawaii shall forward to the auditor of the Territory duplicate original vouchers signed by the per diem employees for the respective amounts received by them as bonus and if the total of said vouchers shall be less than said \$47,000.00 the difference shall revert to and remain in the general fund of the Territory.

Section 4. This Act shall take effect upon its approval.

(Approved April 11, 1945.) S.B. 83, Act 13.

Series E-214: ACT 52

An Act Providing for Appeals from Orders of the Director of Liquor Control Suspending or Revoking Licenses Under Section 3 of Hawaii Defense Act Rule No. 55.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The provisions of section 7276 of the Revised Laws of Hawaii 1945, relating to appeals from orders of liquor commissions, shall apply to orders of the director of liquor control suspending or revoking, under the provisions of paragraph (b) of section 3 of Hawaii Defense Act Rule No. 55, as amended, licenses issued under the provisions of paragraph (a) of said section.

Section 2. This Act shall take effect upon its approval.
(Approved April 28, 1945.) H.B. 143, Act 52.

Series E-215: ACT 69

An Act Relating to the Regulation, Control and Stabilization of the Use, Occupancy and Rents of Commercial Premises, and Transactions Related Thereto, Limiting the Right of Recovery of Possession Thereof, Providing for the Continuance of Hawaii Defense Act Rule Number 105, as Amended by Rule Number 109, Except as Modified by this Act, and Providing Funds for the Administration of this Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

[COMMERCIAL RENT CONTROL]

Section 1. Findings and declaration of emergency. It is hereby found and declared that there has arisen within this Territory a situation inimical to the economic life, health, and welfare of the people, namely, a shortage of available space to meet the needs of the suddenly enlarged population, with little or no prospect of new commercial building during the present war; the use of space which is needed for businesses which are of community service, for the accommodation of businesses which offer high profits but are of little or no community service; and undue pressure on rent levels, originating in the shortage of available space, intensified by the demands for space for the accommodation of the aforesaid high profit businesses. In

this situation the normal processes of bargaining between landlord and tenant cannot take place. This situation has been controlled by Rule Number 105, as amended by Rule Number 109, issued by the governor under the authority of the Hawaii Defense Act, and extended by Joint Resolution 1 of this legislature to March 31, 1945, and by Rule Number 135 to April 30, 1945. If a control program is not continued many landlords will make demands for greatly increased rents which tenants cannot meet without the federal program against inflation being impaired. If tenants are forced to move, through inability to meet rent increases or through demand of the landlord for return of the premises, many of them will be unable to obtain other space, or to obtain, under rationing and priority regulations, the supplies, materials and services necessary for them to re-establish themselves elsewhere, while in other cases there will be a waste of supplies, materials and services which could be saved if businesses were not forced to move from place to place. Such supplies, materials and services are needed for housing accommodations, the acute shortage of which vitally affects the health and welfare of the people, and they must be conserved. Displacement of established businesses which meet community needs for the production and distribution of commodities and services must be prevented. The pressure on price ceilings through uncontrolled commercial rents must be removed.

It is further found and declared that there is no prospect of relief of the aforesaid conditions until normal building is resumed and the population stabilized, which will be at least six months after the termination of the war. It is the intent of this Act to afford relief from the aforesaid conditions, and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

Section 2. **Definitions.** (a) When used in this Act, unless the context otherwise requires:

1. "Commercial premises" means any real property, or portion thereof, located in any county or locality to which this Act applies, as provided in section 3, so long as the Act so applies, except:

- a. Property solely used as a place of abode;
- b. Property not improved with any building, where there is no use or occupancy thereof; and
- c. Such other property as the governor shall find and determine to be not subject to the conditions set forth in section 1 of this Act, or to be otherwise sufficiently regulated. Such exceptions may be made according to locality, type of use, type of occupancy, or type of ownership or rental agreement.

2. "Commercial property control" means, besides the control provided by this Act, the control provided by rule 105, as amended by rule 109, issued by the governor under the authority of the Hawaii Defense Act, and extended by Joint Resolution 1, Rule 135, and this Act.

3. "Rental agreement" means any arrangement, written, oral, or implied, whether heretofore or hereafter made, entitling a tenant to the use or occupancy of commercial premises in consideration of the payment of rent, and includes any extension or modification of such rental agreement pursuant to the provisions of this Act.

4. "Written lease" means a rental agreement made in writing for a term of six months or more from the inception of such lease, during which period the landlord has no right of termination at his own option.

5. "Rent" means the consideration, including any bonus, benefit or gratuity, demanded or received for the use or occupancy of commercial premises under any rental agreement.

6. "Landlord" means the person receiving or entitled to receive rent under any rental agreement, or his assignee or other successor in interest, or an agent of any of the foregoing.

7. "Tenant" means the person entitled to the use or occupancy of commercial premises under any rental agreement.

8. "Person" means an individual, corporation, partnership, or fiduciary, or the territory or one of its political subdivisions.

9. "Actual occupant" means and refers to the person who is the proprietor of the business conducted on the commercial premises concerned.

10. "Administrator" means the administrator of commercial real property control.

11. "Board" means the board of review for commercial real property control.

12. "Revised Laws" means the Revised Laws of Hawaii 1945.

(b) The foregoing terms may be further defined and other definitions added by rules of the governor not in conflict with the provisions of this Act.

Section 3. Scope of Act. This Act shall apply to the city and county of Honolulu, the districts of Wailuku and Lahaina of the county of Maui, the city of Hilo (as described by section 6351 of the Revised Laws of Hawaii 1945) and to such other counties, or portions thereof, as shall be found and determined to be subject to the conditions set forth in section 1 of this Act. Such finding and determination may be made by resolution of the board of supervisors of the county concerned, after a

public hearing thereon, in which event the governor, not later than thirty days after the receipt of such resolution, shall extend the application of this Act to such county or portion thereof by a rule issued as provided in section 13; or such finding and determination may be made by a rule of the governor after public hearing thereon, as provided in section 13. The governor may suspend the application of this Act to any county or portion thereof (including Honolulu, Hawaii, and Maui) with respect to which he shall find and determine that the conditions set forth in section 1 of this Act do not presently require the control provided for by this Act, until a contrary finding shall be made by the board of supervisors concerned or by the governor in the manner above provided.

Section 4. Administration. (a) There is hereby created the office of administrator of commercial real property control. The administrator shall be appointed by the governor and shall, in person or through a deputy appointed by him with the approval of the governor, perform the duties and exercise the powers vested in him by this Act, or vested in him by the governor pursuant to this Act or the Hawaii Defense Act. The provisions of the Hawaii Defense Act shall apply to the administrator and all other necessary personnel. Any appropriations heretofore or hereafter made for the purposes of the Hawaii Defense Act may be used for the administration of this Act.

(b) **Board of review.** There is hereby created a board of review for commercial real property control for any county in any portion of which this Act applies, as stated in section 3. Each board shall consist of three members appointed by the governor in the manner provided by section 80 of the Organic Act, for a term of two years and until their successors are appointed and qualify. Any vacancy shall be filled by appointment for the remainder of the unexpired term. The governor shall designate one of the members of each said board as chairman. Section 482 of the Revised Laws (quorum) and section 84 of the Organic Act and section 9573 of the Revised Laws (disqualification) shall apply to each said board. The governor may appoint an acting member of a board to serve in the event of the temporary absence from the county, illness or disqualification of a member.

(c) **Oaths, etc.** Section 13131 of the Revised Laws shall apply to the administration of this Act and to all hearings held under this Act.

Section 5. Extension of rental agreements. (a) Any rental agreement, as defined by section 2 (notwithstanding the tenant's right of use or occupancy has otherwise expired or terminated

or would otherwise expire or terminate, were it not for the provisions of this Act, by reason of notice of termination given to the tenant, whether or not such notice was given prior to the effective date of this Act, or under the provisions of said rental agreement, or other provisions of law), shall continue at the option of the tenant during the effective period of application of this Act, as to any commercial premises or portion thereof covered by said rental agreement of which the tenant is and continues to be the actual occupant, and such tenant shall not be removed therefrom without his consent, unless:

(1) the administrator shall have made an order permitting the termination of the tenancy, as provided in section 6, and said order has become final, as provided in section 12 (d); or

(2) the tenant shall have forfeited his right of use or occupancy as set forth in section 10403 of the Revised Laws or section 8 of this Act, or through nonpayment of rent or any other breach of the terms, conditions, or obligations of the rental agreement, express or implied in law, except the covenant to surrender possession; or shall have used or permitted the use of the premises for illegal purposes.

(b) **Application of subsection (a) of this section.** (1) Nothing in this Act shall be deemed to prevent the expiration or termination of a rental agreement in the manner provided by law if the tenant is not the actual occupant of the commercial premises, or as to any portion of the premises of which the tenant is not the actual occupant, but only upon assumption by the landlord of the rental agreement, if any, between such tenant and the actual occupant, and without prejudice to the rights of such occupant, subject, however, to the provisions of paragraph (2) of this subsection.

(2) No subtenant whose rental agreement was made on or after the date (whether heretofore or hereafter) when commercial real property control was extended to the premises occupied by him, shall acquire any rights under subsection (a), in the event of expiration or termination of his landlord's rental agreement, against the person to whom the premises revert, unless such person, or his predecessor in interest, gave his written consent to such subtenant's occupancy, or such subtenant's landlord, at the time of creating the subtenancy, held a written lease the term of which had at least three months to run, which did not require approval of such subtenancy or did require approval thereof and such approval was obtained.

(3) It shall be deemed that the tenant has exercised the option to continue the rental agreement, to which reference is made in subsection (a), until and unless the tenant shall have surrendered the premises or shall have waived such option in

such other manner as the governor may by rule provide, and such option may not be waived otherwise. No unlawful dispossession of a tenant from any premises shall prejudice his status as the actual occupant of such premises or otherwise prejudice his rights and defenses.

(4) Subsection (a) shall be construed as conferring additional rights and benefits upon tenants and shall not abrogate any right or defense held or enjoyed under the provisions of any agreement or under ordinary rules of law. No person shall be required to elect between such other rights or defenses and the benefits of subsection (a). No order of the administrator or board shall be deemed to relate to any such other right or defense, but only to the additional rights and benefits conferred by subsection (a).

Section 6. Order permitting the termination of a tenancy; nonconformity with order a misdemeanor. (a) The governor shall formulate rules governing the issuance of the orders to which reference is made in section 5 (a), paragraph (1). The use and occupancy of the premises, proposed to be made or authorized by the landlord, shall be compared with the present use and occupancy, and the decision shall be based on (1) relative community needs for the production and distribution of commodities and services, and (2) the provident utilization of supplies, materials, and services, substantially as set forth in paragraphs numbered (1), (2) and (3) of section 8 (b) of Hawaii Defense Act rule number 105 or in such other manner as will best provide for protection of businesses which meet community needs, and for conservation of supplies, materials, and services, as set forth in section 1; **provided**, that businesses which do not meet community needs for the production and distribution of commodities and services shall not be protected, and where the present use and occupancy is of such character the order shall issue, unless the change of occupancy will involve substantial building or alteration costs. While an application for such an order is pending before the administrator or the board, or if such order has not become final as provided in section 12 (d), the tenant shall continue to pay the lawful rent, and the acceptance thereof shall not be deemed to prejudice the landlord with respect to the effect of any notice to vacate given by him. In the event that a rent payment made by the tenant pursuant to the requirements of this paragraph should cover a greater period of occupancy than is thereafter enjoyed by the tenant, the rent for the balance of the period after the tenant's occupancy ceases shall be refunded.

(b) **Bond.** Such order shall specify the use and occupancy which are to be made of the premises upon termination of the

present tenancy, and may require a reasonable cash bond or other bond conditioned for the use and occupancy of the premises in the manner specified in such order (except as such order may be modified) for a maximum period of six months after possession is obtained from the tenant concerned. Such order may provide for forfeiture of the bond in the event of non-use of the premises as well as in the event of use or occupancy of the premises other than as specified in the order. In the event of forfeiture of the bond the proceeds thereof shall be paid to the territory.

(c) **Nonconformity with order a misdemeanor.** Whether or not such bond is required, any person who, during the period of six months after possession is obtained from a tenant, shall use or occupy or permit the use or occupancy of any premises in a manner other than as specified in the order permitting termination of the tenancy of such premises, except as such order may be modified, shall be guilty of a misdemeanor punishable as hereafter provided.

(d) **Modification of order.** An order permitting the termination of a tenancy may be modified at any time as to the use and occupancy to be made of the premises, upon proof of a bona fide change of circumstances which could not have been anticipated at the time such order was obtained and upon due consideration of the public interests, as set forth in subsection (a).

(e) **Additional powers of governor.** If the governor shall find and determine that the provisions of subsection (a), under the then existing circumstances, are inadequate to afford sufficient relief from the conditions set forth in section 1 and to accomplish the objectives therein set forth, he may withhold the issuance of orders under subsection (a) with respect to such rental agreements, such commercial premises, or such types of use and occupancy, and for such period, as may be necessary to afford such relief.

Section 7. Rental rates. (a) No rent shall be demanded or received by any landlord for any commercial premises at a rate in excess of the lawful rental rate, determined as hereinafter provided.

(b) **Initial rates.** The rental rates for commercial premises heretofore subject to the provisions of rules numbered 105 and 109, issued under the Hawaii Defense Act, determined as provided in said rules, shall continue to be the lawful rental rates, subject to the provisions of this Act and the rules of the governor. For commercial premises not heretofore subject to said rules, to which commercial real property control is extended by this Act, the lawful rental rates as of the effective date of this

Act shall be determined pursuant to said rules as amended by section 17 of this Act. For commercial premises to which commercial real property control hereafter shall be extended by the governor, the lawful rental rates as of the effective date of the rule so extending such control, subject to modification as provided in this Act and the rules of the governor, shall be determined by the governor in such manner as to perpetuate the provisions of written leases, and the rental rates accepted by tenants through rent payments actually made in accordance therewith, except to the extent that such leases were made, or such rental rates so accepted, under conditions which materially affected the normal processes of bargaining between landlord and tenant. No rental rate fixed by a written lease made prior to the effective date of control of the premises concerned, for a term which includes the rental period involved, shall be altered under the foregoing provision unless the lessor shall, by the governor's rules, be given the option to terminate the lease, thereby acquiring, as to the premises or portion thereof of which the lessee is the actual occupant the same rights and duties as to rent adjustments and as to orders permitting termination of tenancy, as if there had been no lease for a fixed term, and as to the premises or portion thereof of which the lessee is not the actual occupant, the lessor shall thereby acquire all of the lessee's rights and obligations with respect to the lessee's tenants.

(c) **Voluntary agreements.** A rental rate may be increased or decreased or a new rental rate determined for any commercial premises by mutual assent of landlord and tenant, evidenced in such manner as the governor may require. **Provided,** that if the governor shall find and determine that the provisions of this subsection are materially contributing to inflation of price ceilings he may suspend the provisions of this subsection with respect to such rental agreements, such types of use and occupancy, or such commercial premises, and for such period, as may be necessary to afford relief against such inflation, or he may relieve the pressure on rent ceilings by action under section 6 (e), or both.

(d) **Administrative determinations.** A rental rate may be increased or decreased or a new rental rate determined by the administrator upon application of the landlord or tenant. Such rental rate shall be the rate which is generally fair and equitable, judged in the light of what the premises are worth for the use made or to be made thereof by the actual occupant or occupants, but excluding from consideration any rental rate which could reasonably be met only by an increase of the prices generally prevailing in the actual occupant's line of business. **Provided,** that the provisions of a written lease for a term which

includes the rental period involved shall not be altered under this subsection.

Section 8. Changes of use. No tenant of commercial premises shall change the use thereof, or authorize such change, without the consent of his landlord and such other person, if any, as under ordinary rules of law in the absence of this Act could have prevented such change of use by recovery of possession or otherwise, unless such change of use is permitted by the administrator, on the ground that (a) such change of use will not injure or depreciate the value of the property involved or other property in which the party objecting thereto has an interest, and will not be injurious to the business of other tenants of such party, and (b) such new use will meet community needs for the production and distribution of commodities and services as well as or better than the present use.

A violation of this section shall be deemed a breach of the rental agreement.

Section 9. Unlawful removal. No landlord who, under this Act, does not have the right of recovery of commercial premises, shall remove or seek to remove his tenant or recover or seek to recover possession, without the consent of the tenant, by action or proceeding to evict or to recover possession, by exclusion from possession, by cessation or reduction of services, by changing the condition of the premises, by acts or practices or by permitting acts or practices which substantially impair the enjoyment of the premises, or otherwise; **provided**, this section shall not be deemed to prohibit the mere giving of a notice which is required in order to terminate the tenancy, effective upon the obtaining of an order permitting such termination, which order has become final as provided in section 12 (d).

Section 10. Statutory modification of rental agreements. (a) All rental agreements heretofore or hereafter made shall be deemed to be modified by or subject to the provisions hereinafter set forth, and such provisions shall be deemed matters of substantive right or defense as provided in section 11, to wit:

(1) The provisions of rules numbered 97, 103, 105 and 109, issued under the Hawaii Defense Act.

(2) Joint Resolution 1, enacted at this session of the legislature, and, subject to section 17, the provisions of rule 135 issued under the Hawaii Defense Act.

(3) The provisions of this Act and the rules, orders, determinations and decisions issued under this Act.

(b) **No waiver of rights and benefits.** Except as expressly authorized by such rules or enactments no right or benefit thereunder may be waived.

Section 11. **Court proceedings.** In any suit involving recovery of possession of real property, rents, damages for failure to surrender possession, or any other question arising out of the relation of landlord and tenant, the court shall determine the rights and duties of the parties in accordance with the provisions of this Act, and the enactments, rules, orders, determinations and decisions referred to in section 10 (a). All of the foregoing provisions shall be deemed matters of substantive right or defense with respect to the periods of time to which the same relate, whether or not this Act or such other enactments or such rules shall have expired or been repealed.

The provisions of this section and the other provisions of this Act shall apply to all actions for summary possession, ejectment or other actions for recovery of possession, as well as other proceedings, and shall apply to pending proceedings as well as to cases hereafter commenced. A proceeding shall be deemed pending even if judgment has been entered or an order or decree made, and notwithstanding the provisions of section 10412 of the Revised Laws, even if a writ of possession or other execution has issued, so long as such writ has not been executed or such execution satisfied.

In any proceeding for the recovery of possession pending on the effective date of this Act, if it shall appear that no application has been made for an order permitting the termination of the tenancy, as provided in section 6, or no final determination has been made thereon, the court, upon application of the party seeking to recover possession, may grant a reasonable time within which to obtain such final order and thereafter shall entertain such further proceedings as may be necessary in order to dispose of the case.

In any proceeding for the recovery of possession pending on the effective date of this Act, or founded upon a notice to vacate given prior to the effective date of this Act, if nonpayment of rent is a material issue the court shall grant a reasonable time in which the tenant, if he is the actual occupant of the premises, may determine whether, in the light of the relief afforded him by this Act and the aforesaid enactments and rules, he will make the payments required for continued occupancy of the premises and if he makes such payments within the time so allowed he shall not be removed from the premises whether or not a writ had issued prior to the effective date of this Act.

If an order, decree or judgment has been made but not executed before the effective date of this Act, the proceeding being then pending as hereinabove provided, the court by which such order, decree or judgment was made or such other court as shall have jurisdiction to rescind or modify the same, shall, if it is of the opinion that the order, decree or judgment would

not have been made had this Act been in effect at the date of the making thereof, rescind or modify such order, decree or judgment as may be proper in order to give effect to this Act.

Section 12. Appeals. (a) **To the board.** The orders, determinations and other decisions of the administrator shall be subject to review by the board, which shall have the power to affirm, modify, or reverse the same, to refer the case back to the administrator with appropriate directions, or to make a new order, determination or decision.

(b) **To the court.** The orders, determinations, and other decisions of the board shall be subject to review by a judge of the circuit court at chambers of the circuit in which the commercial premises are situated.

The petition for such review shall be filed within ten days after the date of mailing of a copy of such order, determination or decision to the petitioner's last known address, or if such copy is not mailed, within ten days after the date of delivery thereof to him. The petition for review need not be verified but shall state the grounds upon which such review is sought. Such petition for review shall name as parties respondent all of the parties to the proceeding before the board, except the administrator. The petition for review shall be served upon the parties respondent in such manner as may be prescribed by the court and the procedure thereon shall be as prescribed by the court. The circuit judge shall have power to grant a stay of any order, determination or decision, as he may determine to be equitable in the premises, upon such terms as he may prescribe, subject to the provisions of subsection (d) of this section. The administrator shall be notified of such petition by the clerk of the court, and shall certify and file with the court a copy of the record, in such form and including such matters and within such time as may be prescribed by the court.

In any proceeding for review by a court the jurisdiction of such court shall be confined to questions of law. No additional evidence shall be received by the court but the court may order additional evidence to be taken before the board, and the board may, after hearing such additional evidence, modify its order, determination, or decision, and the board shall file such modified order, determination, or decision, together with a transcript of the additional record, with the court.

Proceedings for review by the supreme court may be taken and had in the same manner, but not inconsistent with the provisions of this Act, as is provided for a review of an order or decree of a circuit judge at chambers.

Upon the final termination of any such judicial review, the board shall enter an order, determination or decision in accordance with the mandate of the court.

(c) **Administrator as a party.** The administrator shall be a party to any proceeding for review by the board, and shall be entitled to intervene in any proceeding for judicial review.

(d) **Order permitting termination of tenancy, when final.** An order permitting the termination of a tenancy shall be deemed to be final when (1) made by the administrator, and the time for appeal to the board shall have elapsed without the taking of an appeal; or (2) affirmed or made by the board, and the time for appeal to the court shall have elapsed without the taking of an appeal; or (3) affirmed or made by the board, and within the time for appeal to the court an appeal shall have been taken but no stay of such order shall have been issued by the court within such time, in which event the order shall have the force and effect of a final order until and unless reversed on the appeal; **provided** that, if an order permitting termination of a tenancy is not stayed and pursuant thereto the tenant shall surrender or be removed from the premises, then in the event such order is reversed the landlord shall be liable in damages the same as if the tenant had been unlawfully dispossessed; **provided**, further, that, if an order permitting termination of a tenancy is stayed and pursuant thereto the tenant shall remain in possession of the premises, in the event the order is affirmed the tenant shall be liable in damages the same as if he had continued in possession unlawfully during the period of the stay order.

(e) **Recovery of possession, when.** In the event of a petition for review of an order permitting the termination of a tenancy, or of a decision refusing to issue such order, if the court shall affirm, or direct the issuance of, an order permitting the termination of the tenancy, and if it shall appear that the right of recovery of the premises does not involve other issues of fact to be tried by a jury, the court shall have jurisdiction, as a part of such review proceeding, to render a decree for possession of the premises and to direct the issuance of a writ of possession accordingly.

Section 13. Rules and regulations. The governor shall have power to prescribe rules and regulations for the administration and enforcement of this Act, which if not in conflict with the provisions of this Act shall have the force and effect of law. Rules and regulations so prescribed shall be published in a newspaper of general circulation in the territory, or in the county concerned. Notwithstanding the provisions of sections 466 to 475, inclusive, of the Revised Laws, such rules and regulations need not be recorded, and the public hearing thereon may, at the governor's discretion, be held by the administrator or such other person as the governor may thereunto authorize, who shall make a report thereon to the governor.

Without prejudice to the generality of the foregoing, such rules and regulations of the governor may make findings and determinations which shall have the same force and effect as legislative findings and determination; may define terms, as provided in section 2 of this Act; may determine the application of this Act with respect to particular counties or portions thereof or particular premises, as provided in section 2 (a) (1) and section 3; shall provide in what cases orders permitting termination of tenancies shall issue, as provided in section 6; shall prescribe the lawful rental rates as of the effective date of any rule extending commercial real property control to any county or portion thereof, subject to modification of such initial rental rates, as provided in section 7; may limit the frequency of applications for determination of rental rates under section 7 (d); may prescribe the maximum amount of bond which may be required under section 6 (b); may prescribe the forms of orders, determinations and decisions with respect to inclusion therein of findings of fact or statements of the considerations upon which the same are based, or otherwise; shall provide for due notice of hearings and of the orders, determinations and decisions made by the administrator or the board; shall provide for hearings as required by law; may require that information be given the administrator in such form as the governor may prescribe, of the giving of notices to vacate, or of actions or proceedings for the recovery of commercial premises, whether heretofore or hereafter given or commenced; shall prescribe the effective date of rent determinations made by the administrator or the board; may prescribe the time for payments or refunds necessary to make adjustments under such rent determinations and may provide for prorating of rents in such instances, or in other instances in which only a portion of the normal rental period is involved; may provide for determination of the rights and duties of landlords and tenants with respect to payment of charges such as taxes, and with respect to utilities, repairs, services, improvements, and similar matters, in such manner as to make the provisions of this Act as to lawful rental rates effective; may require registration of use and occupancy and registration of rental agreements and may provide for forfeiture of rights or benefits conferred by this Act for failure to comply with such requirements; shall prescribe the procedure for review by the board, the time for appeal thereto, and the effect of the taking of an appeal with respect to stay of the administrator's order, determination, or decision; and may provide for the coordination of the provisions of this Act with the functions of other rent control administrators or commissions, with the functions of territorial or county licensing authorities, or with functions relating to conservation, rationing or the allocation of priorities.

Section 14. Injunctions; interventions. (a) Whenever in the judgment of the administrator any person has engaged or is about to engage in any act or practice, or to make or permit any use or occupancy of commercial premises, which constitutes or will constitute a violation of section 6 (c), 7 (a) or 9 of this Act, he may make application to the appropriate court in the name of the Territory for an order enjoining such acts or practices or such use or occupancy, or for such other order as will enforce compliance with such provisions, and upon a showing by the administrator in such manner and form as is usual in injunction cases, that such person has engaged or is about to engage in any such act or practice, or to make or permit such use or occupancy, a permanent or temporary injunction, restraining order or other appropriate order shall be granted without bond.

(b) In addition to the right of intervention in appeal proceedings conferred by section 12, the administrator may intervene in the name of the Territory in any other action or proceeding wherein a party asserts a right or defense under this Act or any enactment, rule, order, determination or decision referred to in section 10 (a), or wherein, in the judgment of the administrator, there is an issue to be presented which involves enforcement of the provisions of this Act or said enactments, rules, order, determinations or decisions.

Section 15. Misdemeanors. (a) Any person who shall knowingly make any false statement or furnish any false information or conceal any material fact or in any manner intentionally deceive or attempt to deceive the administrator, the board, or any authorized representative of either of them, in any application, statement, report, investigation, or hearing made or conducted pursuant to the provisions of this Act or the rules of the governor hereunder, shall be guilty of a misdemeanor.

(b) Any person who shall wilfully violate the provisions of section 7 (a) or 9, or the provisions of any rule or regulation of the governor violation of which is stated in such rule or regulation to be a misdemeanor, shall be guilty of a misdemeanor.

(c) Any person convicted of a misdemeanor under this section or section 6 (c) of this Act shall be punished as provided in section 13134 of the Revised Laws.

Section 16. Effect on Hawaii Defense Act. This Act shall be deemed to supersede the provisions of section 13114 (9) of the Revised Laws with respect only to the terms of rental agreements covering commercial premises and the recovery of possession of such rented premises. Notwithstanding this Act the provisions of said section 13114 (9) may be applied by the governor to further alleviate the conditions set forth in section 1

of this Act, for example, by the licensing of all commercial premises, rented or otherwise, and control of other license provisions relating thereto, in such manner as to prevent the diversion thereof to businesses of little or no community service; and such rules issued under the Hawaii Defense Act may be combined with rules issued under this Act.

Section 17. Continuance of rule 105. Rule 105, as amended by rule 109, issued by the governor under the authority of the Hawaii Defense Act, as modified by this Act, is continued in effect as constituting rules of the governor under this Act and under the Hawaii Defense Act, until rescinded or amended by the governor. This provision shall supersede Hawaii Defense Act rule 135 which fixed April 30, 1945 as the expiration date of said rule 105, as amended.

In order that said rule 105, as amended, may operate in the city of Hilo as of the effective date of this Act, as provided by section 3 of this Act, said rule is hereby further amended as follows:

(a) By adding a reference to the city of Hilo wherever reference is made to the districts of Wailuku and Lahaina of the county of Maui, or to the county of Maui, in the title and sections 1, 4 and 25 of said rule, and by adding a reference to the county of Hawaii in section 3 (j) of the rule.

(b) By prescribing as the date to which reference is made in each of the following provisions of said rule the date hereinafter specified, which shall apply to the city of Hilo, to wit:

In subsection (a) of section 7 of said rule, the day preceding the effective date of this Act.

In subsection (b) of section 17 of said rule, forty-five days from and after the effective date of this Act.

In subsection (c) of section 17 of said rule, sixty days from and after the effective date of this Act.

In section 31 of said rule, the effective date of this Act.

Nothing herein shall be deemed to preclude further amendments by the governor, or the rescission of said rule and the substitution of other rules, not in conflict with the provisions of this Act.

Section 18. Amendment of prior laws. All laws inconsistent with this Act are hereby amended to conform herewith.

Section 19. Constitutionality. If any section, sentence, clause or phrase of this Act, or its application to any person or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the applica-

tion of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

The provisions of section 13127 of the Revised Laws shall apply to this Act.

Section 20. **Effective and expiration dates.** This Act shall take effect on its approval and shall cease to be in effect six months after the governor shall have proclaimed the termination of the defense period which commenced December 7, 1941, or six months after the President shall have proclaimed the termination of the present war, whichever is the earlier; provided that any violation of this Act, committed while the Act is in force, may be prosecuted and punished thereafter whether or not this Act is in force at the time of such prosecution and punishment; provided, further, that, notwithstanding the foregoing, this Act shall remain and continue in force for the enforcement of rights and the enjoyment of defenses which shall have accrued or attached on or before the date of expiration, hereinabove set forth.

(Approved April 30, 1945.) **H.B. 292, Act 69.**

APPENDIX: NOTE 1.

CONTINUING APPROPRIATIONS, ETC.

Series E-216: ACT 261

An Act Providing for Payments of Additional Compensation to the Delegate to Congress from Hawaii, the Governor and Secretary of Hawaii and Judges of Certain Courts in the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. [**Delegate.**] The treasurer of the Territory is hereby authorized and directed to pay to the delegate to Congress from Hawaii upon warrants which the auditor of said Territory is hereby authorized and directed to issue each month, the sum of five hundred dollars as additional compensation to said delegate for services rendered the people of the Territory.

Section 2. [Governor.] The treasurer of the Territory is hereby authorized and directed to pay to the governor of Hawaii, upon warrants which the auditor of the Territory is hereby authorized and directed to issue each month, the sum of five hundred dollars as additional compensation for his services.

Section 3. [Judges of supreme and circuit courts.] The treasurer of the Territory is hereby authorized and directed to pay to the several judges of the supreme court and to the several judges of the circuit courts of the Territory of Hawaii, upon warrants which the auditor of the Territory is hereby authorized and directed to issue, each month, the sum of two hundred fifty dollars, as additional compensation for their services.

Section 3-A. [Secretary.] The treasurer of the Territory is hereby authorized and directed to pay to the secretary of Hawaii, upon warrants which the auditor of the Territory is hereby authorized and directed to issue each month, the sum of one hundred eight and thirty-three one-hundredths dollars as additional compensation for his services.

Section 4. The payment of the sums hereinabove provided shall not be construed to make the recipients officers or employees of the Territory and shall not entitle them to any bonus or to be or become members of any retirement system created under the laws of the Territory.

Section 5. Should the compensation payable by the government of the United States to any of the officers mentioned in the preceding sections of this Act be hereafter increased by Act of Congress over the rate payable on the effective date of this Act, the additional monthly compensation payable to such officer under this Act shall be reduced by an amount equal to the amount of the monthly increase of compensation authorized by such Act of Congress.

Section 6. There are hereby appropriated from month to month from the general revenues of the Territory not otherwise appropriated such amounts as shall be necessary to effectuate the purposes of this Act.

Section 7. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 8. This Act shall take effect upon the first day of the calendar month following the date of the approval thereof.

(Approved May 22, 1945.) S.B. 260, Act 261.

Series E-217: ACT 86

AM. '49

Sr E-311 A17

An Act to Provide for the Payment of an Allowance for Personal Expenses of Members of the Legislature of the Territory, Other than Members Residing on the Island of Oahu, While Attending any Session of the Legislature.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. A member of the legislature of the Territory, other than members residing on the island of Oahu, while attending any session of the legislature shall be allowed ten dollars a day, which amount is to cover all personal expenses, such as board, lodging, etc., but not traveling expenses; and such allowance shall be paid, out of any available appropriation made by the legislature for expenses of the house concerned, in the same manner as other expenses of the legislature, to each such member for such purpose, at said rate, from the first to the last day of each session, including Sundays and holidays, during which it shall be certified by the chairman of the accounts committee or other official or officials of such house designated by the rules thereof for such purpose, that such member was in attendance.

Section 2. This Act shall take effect as of February 21, 1945.
(Approved May 5, 1945.) S.B. 23, Act 86.

NOTE 3.

FRANCHISES.

Series E-218: ACT 32

AM. '49

Sr E-311 A 251

An Act to Amend Act 101 of the Session Laws of Hawaii 1921, Relating to the Manufacture, Maintenance, Distribution and Supply of Electric Current for Light and Power within the Districts of North and South Hilo and Puna, in the County of Hawaii, so as to Extend the Franchise to the Districts of Kau and South Kohala, in Said County.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The title of Act 101 of the Session Laws of Hawaii 1921 is hereby amended to read as follows:

"AN ACT TO AUTHORIZE AND PROVIDE FOR THE MANUFACTURE, MAINTENANCE, DISTRIBUTION AND SUPPLY OF ELECTRIC CURRENT FOR LIGHT AND POWER WITHIN THE

DISTRICTS OF NORTH AND SOUTH HILO, PUNA, KAU, AND SOUTH KOHALA, IN THE COUNTY AND TERRITORY OF HAWAII."

Section 2. Section 1 of said Act is hereby amended to read as follows:

"Section 1. Franchise. The right is hereby granted to the Hilo Electric Light Company, Limited, as a body corporate, under that or such other name as the said company may hereafter adopt, and its successors and assigns, to manufacture, sell, furnish, and supply electric light, electric current, or electric power in the districts of North and South Hilo, Puna, Kau, and South Kohala, on the island of Hawaii, Territory of Hawaii, for lighting the streets, roads, public and private buildings and property, or for motive power, or for any other purpose which it or they may deem advisable, and from time to time for the purposes above mentioned to construct, maintain, and operate suitable poles, lines, wires, cables, lamps, lamp posts, conductors, conduits, and such other appliances and appurtenances as may from time to time be necessary or convenient for the transmission, distribution or supply of electricity to consumers thereof, under, along, upon and over the streets, sidewalks, roads, squares, bridges, alleys, and lanes in said districts of North and South Hilo, Puna, Kau, and South Kohala, and to connect the said wires, lines, and conductors with any manufactory, private or public buildings, lamps, lamp posts, or other structure or object and the place or source of supply."

Section 3. Section 3 of said Act is hereby amended to read as follows:

"Section 3. Poles not to interfere with streets. That all poles, lines, wires, cables, lamps, lamp posts, conductors, conduits, and other apparatus constructed, maintained, or operated under, along, upon, or over the streets, sidewalks, roads, squares, bridges, alleys, and lanes in said districts of North and South Hilo, Puna, Kau and South Kohala, shall be so constructed, and maintained and operated by the corporation as not to interfere unnecessarily with the use of such streets, sidewalks, roads, squares, bridges, alleys and lanes by the public."

Section 4. Section 11 of said Act is hereby amended to read as follows:

"Section 11. Forfeiture of franchise. That if said corporation, its representatives, successors and assigns, shall fail or refuse to do or perform or comply with any of the provisions

of this Act or the laws of the Territory of Hawaii, and continue to refuse or fail to perform or comply therewith after reasonable notice given by the public utilities commission of the Territory of Hawaii to comply therewith, said public utilities commission may, with the consent of the governor and of the attorney general, cause proceedings to be instituted before any appropriate tribunal to have the franchise hereby granted and all rights and privileges accruing hereunder forfeited and declared null and void. And in case of a forfeiture of this franchise, the Territory of Hawaii, and county of Hawaii, or any political subdivision thereof, shall have the right to purchase all the property of the corporation within the said districts of North and South Hilo, Puna, Kau, and South Kohala, at the value thereof, such value to be determined as hereinafter provided; **provided** that notice of such desire and intention to purchase is given to the corporation by the Territory of Hawaii or the county of Hawaii or any political subdivision thereof within sixty days after the forfeiture of this franchise."

Section 5. Said Act is hereby further amended by adding thereto a new section, to be numbered "section 15-A", to read as follows:

"Section 15-A. Time of commencing work in the districts of Kau and South Kohala. The rights hereby granted with respect to the districts of Kau and South Kohala shall cease and determine as to both of said districts if operations hereunder in either of said districts are not commenced before four (4) years after the approval of this Act by the Congress of the United States, and shall cease and determine as to either of said districts if operations in said district hereunder are not commenced before four (4) years after the approval of this Act by the Congress of the United States, by beginning the construction of buildings or other works for manufacturing, transmitting, or supplying electric current for light and power, or by placing poles and wiring the same, or constructing conduits and laying wires therein, in any of the streets, roads, or other places in said districts, for the purpose of conducting electric current for light and power; and also if sufficient works are not completed and in operation to supply electric current for light and power or if electric current for light and power be not supplied before four (4) years after the approval of this Act by the Congress of the United States."

Section 6. This Act shall take effect upon its approval by the Congress of the United States.

(Approved April 23, 1945.) **H.B. 569, Act 32.**

KEEHI LAGOON.

Series E-219: ACT 87

An Act to Amend Act 3 of the Session Laws of 1941 (Note 7 of the Appendix, Revised Laws of Hawaii 1945) and Act 168 of the Session Laws of 1943, Relating to Keehi Lagoon Seaplane Harbor and John Rodgers Airport, and Making an Additional Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 3 of the Session Laws of Hawaii 1941 (note 7 of the Appendix, Revised Laws of Hawaii 1945) is hereby amended in the following respects:

(a) By deleting therefrom the words and figures "one hundred thousand dollars (\$100,000.00)" and by inserting in lieu thereof "two hundred thousand dollars".

(b) By amending the last sentence of said section 1 to read as follows:

"Any amounts within this appropriation not needed for property or property interests for the improvement of the seaplane harbor, as determined by the superintendent of public works, may be expended for additions to or improvement of John Rodgers Airport, or for improvements required in connection with the Keehi Lagoon project."

Section 2. Act 168 (Series E-184) of the Session Laws of 1943 is hereby amended by amending section 1 thereof to read as follows:

"Sec. 1. There is hereby appropriated from the general revenues of the Territory not otherwise appropriated, the sum of fifty thousand dollars for any or all of the purposes set forth in Act 3 of the Session Laws of 1941 (note 7 of the Appendix, Revised Laws of Hawaii 1945, as amended), or the money so appropriated may be expended for the preparation of plans and specifications for improvements at Keehi Lagoon Seaplane Harbor and John Rodgers Airport, irrespective of whether funds are then available for the completion of such improvements."

Section 3. The appropriations made by said Act 3 of the Session Laws of 1941 and said Act 168 of the Session Laws of 1943, as amended, shall be in addition to and not in lieu of any other appropriations which may be available for the same purposes.

Section 4. This Act shall take effect upon its approval.

(Approved May 5, 1945.) S.B. 279, Act 87.

BOND ISSUES.

Series E-220: ACT 8

An Act Relating to the Term and Refunding Bond Issues of the Territory of Hawaii, Making an Additional Appropriation Therefor, Terminating the Obligation of the Various Counties to Reimburse the Territory on Account Thereof, and Providing for the Future Administration of the Said Bond Issues.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of five million eight hundred and fifty thousand dollars (\$5,850,000.00) is hereby appropriated out of the general fund of the Territory for the use and purpose of the sinking fund. This sum shall be in addition to all amounts which may be appropriated by the general appropriation Act for the biennium ending June 30, 1947.

Section 2. Effective January 1, 1945, the obligation of the various counties of the Territory to reimburse the Territory on account of the territorial term and refunding bond issues is terminated, and anything in sections 5252, 5254, 5260, 5924, Revised Laws of Hawaii 1945, or any other law to the contrary notwithstanding, (1) no deduction, allocation or withholding shall be made by the treasurer of the Territory from or in connection with real property tax or fuel tax moneys on account of any county's pro rata share after January 1, 1945, of interest and sinking fund charges on any territorial term or refunding bond issue, or the additional payment to the sinking fund required by section 5924, and (2) no estimated expenditure shall be included in any county budget on account of such interest and sinking fund charges or the said additional payment to the sinking fund.

Section 3. Anything in sections 5923 and 5926, Revised Laws of Hawaii 1945, or any other law to the contrary notwithstanding, the treasurer of the Territory is authorized, commencing July 1, 1945, to cancel any issue of term bonds which has, pursuant to section 5925 of said Revised Laws, been redeemed prior to maturity, and which but for this section would be held alive until maturity. Cancellation of a redeemed issue shall not affect the validity of any bond of said issue which has not theretofore been presented for payment, and said bond shall be as

valid and subsisting an obligation as if the issue had not been cancelled, and upon proper presentment it shall be paid. When, as a result of a transfer made pursuant to section 5926 of said Revised Laws, any bond of a cancelled redeemed issue is held by the general, the revolving or the special fund or by the trustees of the Employees' Retirement System, cancellation of the issue shall not affect the obligation of the sinking fund in connection therewith, and money in the amount of the par value of the bond so held shall be then transferred or credited to such other fund, or to the said trustees, and the sinking fund shall be charged therefor.

Section 4. Cancellation of the \$75,000.00 Hawaiian Homes Lands bond issue of October 1, 1923, shall not discharge the **Hawaiian Homes Commission** from its obligation to annually reimburse the Territory on account of the interest and sinking fund charges thereon, and such charges shall continue in the manner that they would if the issue had not been cancelled; **provided**, that the treasurer is hereby authorized to enter into an agreement with the Hawaiian Homes Commission for the lump sum payment, on a discounted basis, of this obligation and of the refunding bond obligations of the said commission, and payment by the commission pursuant to such an agreement shall thereafter discharge it from its said obligations. Any lump sum payment shall be deposited in the sinking fund.

Section 5. Cancellation of any issue of term bonds shall not discharge the **Board of Harbor Commissioners** from its obligation to annually reimburse the general fund of the Territory on account of any portion of the interest or sinking fund charges for said issue, and for the purposes of **sections 4996, 4997 and 4998**, Revised Laws of Hawaii 1945, and all other laws, such charges shall be deemed to continue in the manner they would if the issue had not been cancelled.

Section 6. On or before July 1, 1945, the treasurer shall compute: (1) the cash expenditure necessary during the biennium ending June 30, 1947, for the redemption upon maturity of public improvement serial bonds; (2) the cash expenditure necessary during the biennium ending June 30, 1947, for the payment of interest charges on all refunding and public improvement serial bonds; (3) the cash expenditure necessary during the biennium ending June 30, 1947, for the payment of interest charges on all term bonds; **provided**, however, that in so computing this cash expenditure, when any issue of term bonds is redeemable prior to maturity during the said biennium, the said cash expenditure for interest shall be computed only up to the earliest possible date of redemption, and that when

any issue of term bonds has been redeemed prior to July 1, 1945, and is being held alive until maturity, no such cash expenditure for interest shall be computed; and (4) the total of the above three amounts.

The appropriation for interest, sinking fund charges and redemption of bonds, contained in the general appropriation Act for the biennium ending June 30, 1947, after deducting therefrom the total of the above three amounts, shall be transferred to the sinking fund on July 1, 1945, and shall be available for sinking fund purposes, it being the intent hereof that the whole of said appropriation, after deducting the total of the above three amounts, shall be immediately available for sinking fund purposes, and shall be transferred to the sinking fund irrespective of the fact that various issues of term bonds redeemed prior to maturity may on July 1, 1945, be cancelled, and irrespective of the fact that various issues of term bonds which may thereafter be redeemed prior to maturity may subsequently be cancelled during the biennium.

Section 7. Anything in any law to the contrary notwithstanding, the treasurer of the Territory, when making his budgetary estimates for sinking fund charges for the bienniums ending June 30, 1949, and June 30, 1951, shall predicate the said estimates on the premise that all unredeemed issues of term bonds will thereafter be redeemed upon the earliest callable date, and will on said date or shortly thereafter be cancelled, and upon the premise that all term and refunding bonds of the Territory will have been redeemed and cancelled, and the use and purpose of the sinking fund will have terminated, with the payment and cancellation of the last of the refunding bonds which mature in November of 1950. Accordingly, the amounts in his budgetary estimates for sinking fund charges for said bienniums shall be sufficient so that the requirements upon the sinking fund in each of said bienniums will be fully met, and all term bonds will be redeemed upon the earliest callable date without any necessity for the issuance of further refunding bonds, and all refunding bonds outstanding will be paid upon maturity, and the obligation of the Territory therefor, and the use and purposes of the sinking fund in connection therewith, will have terminated upon payment as aforesaid of the last of the refunding bonds in November of 1950. All amounts hereafter appropriated for sinking fund charges pursuant to said budgetary estimates shall be immediately transferred to the sinking fund. Nothing herein contained shall be deemed to be applicable to budgetary estimates for interest charges, and they shall be computed in the normal manner.

Section 8. If any assets remain in the sinking fund after termination of the Territory's obligation upon all its term and refunding bonds, they shall be transferred to the general fund.

Section 9. Nothing in this Act contained shall be construed to limit or in any manner affect the power and authority of the proper officers of the Territory to issue refunding bonds.

Section 10. This Act shall take effect upon its approval.

(Approved April 5, 1945.) S.B. 191, Act 8.

Series E-221: ACT 120

An Act Authorizing the Board of Harbor Commissioners to Cancel Certain Leases Relating to the Bag-Sugar Conveyor System at Pier 1, Kahului, Maui, and Providing That Upon Payment of \$52,000 Into the General Fund of the Territory the Harbor Board Funds Shall be Relieved of Charges for Certain Bond Requirements.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of harbor commissioners is hereby authorized to cancel those certain leases between the Territory and Kahului Railroad Company, dated November 1, 1925 and July 15, 1931, which relate to the use of the bag-sugar conveyor system at Pier 1, Kahului, Maui, upon payment by said company into the general fund of the Territory of the sum of \$52,000 and upon such other terms and conditions as the board may require.

Section 2. Upon payment into the general fund of the Territory of said sum of \$52,000 the bond requirements chargeable against harbor board funds under sections 4996 and 4997 of the Revised Laws of Hawaii 1945 shall be reduced by eliminating therefrom all requirements of principal and interest on account of the expenditures made for said bag-sugar conveyor system at Pier 1, Kahului, Maui.

Section 3. This Act shall take effect upon its approval.

(Approved May 8, 1945.) H.B. 484, Act 120.

PENSIONS.

Series E-222: ACT 270

An Act Requiring the Board of Supervisors of the City and County of Honolulu to Provide a Pension for Kate De Mello.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby authorized and directed to provide a monthly pension in the amount of fifty dollars for life for Kate De Mello and to make the necessary appropriation therefor.

Section 2. This Act shall take effect upon its approval.

(Approved May 22, 1945.) S.B. 315, Act 270.

Series E-223: ACT 134

An Act Providing for the Withdrawal of Charles Silva, as a Member of the Employees' Retirement System of the Territory of Hawaii and for His Reinstatement as a Member of the Pension Fund for Policemen, Firemen and Bandsmen of the City and County of Honolulu.

WHEREAS, Charles Silva, Active Service No. C&C-7379 in the employees' retirement system of the Territory of Hawaii, was, prior to the enactment of Act 251, Session Laws of Hawaii 1927, a member of the pension fund for policemen, firemen and bandsmen for the city and county of Honolulu; and

WHEREAS, after the passage of said Act 251 the said Charles Silva applied, by reason of a misunderstanding, to the trustees of said retirement system for membership therein, thereby terminating his rights in said pension fund; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The trustees of the employees' retirement system are hereby authorized and directed to permit the withdrawal of the said **Charles Silva** from membership in said retirement system, and to return to him the amount of his accumulated contributions to said retirement system and he is hereby re-instated as a member of said **pension fund for policemen, firemen and bandsmen** for the city and county of **Honolulu** and shall be entitled to the same benefits in said fund and under the provisions of chapter 121 of the Revised Laws of Hawaii 1945, as if he had never become a member of said retirement system.

Section 2. This Act shall take effect from and after the date of its approval.

(Approved May 10, 1945.) **H.B. 352, Act 134.**

Series E-224: ACT 269

An Act Authorizing and Directing the Board of Supervisors of the County of Maui to Pay Mr. Charles A. Buchanan a Pension.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of **Maui** is hereby authorized and directed to pay a pension to Mr. **Charles A. Buchanan** during the remainder of his natural life, subject to the provisions of chapter 14 of the Revised Laws of Hawaii 1945, in the sum of fifty dollars (\$50.00) per month.

Section 2. This Act shall take effect upon its approval.

(Approved May 22, 1945.) **S.B. 269, Act 269.**

[Note: See pensioners' bonus, Act 175, **F-234**, post.]

Series E-225: ACT 268

An Act for the relief of Mary A. Kiyoji.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby granted to **Mary A. Kiyoji**, subject to the provisions of chapter 14, Revised Laws of Hawaii 1945, a life pension of \$50.00 per month.

Section 2. Sufficient funds to cover the expenditures required by this Act are hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated.

Section 3. Said pension shall be payable to said Mary A. Kiyoji upon warrant issued by the treasurer of the Territory.

Section 4. This Act shall take effect upon its approval.

(Approved May 22, 1945.) **S.B. 212, Act 268.**

Series E-226: ACT 267

An Act for the Relief of Rose Kiyoji.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby granted to **Rose Kiyoji**, subject to the provisions of chapter 14, Revised Laws of Hawaii 1945, a life pension of \$50.00 per month.

Section 2. Sufficient funds to cover the expenditures required by this Act are hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated.

Section 3. Said pension shall be payable to said Rose Kiyoji upon warrant issued by the treasurer of the Territory.

Section 4. This Act shall take effect upon its approval.

(Approved May 22, 1945.) **S.B. 211, Act 267.**

Series E-227: ACT 271

An Act Providing a Pension of Fifty Dollars per Month for Life to Clarence W. Macfarlane.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The treasurer of the Territory is authorized and directed to pay each month to **Clarence W. Macfarlane**, and continuing throughout his natural life, upon warrants which the territorial auditor is authorized and directed to issue, a pension in the sum of fifty dollars, and money to cover said pension is hereby appropriated from the general fund of the Territory.

Section 2. This Act shall take effect on July 1, 1945.

(Approved May 22, 1945.) S.B. 324, Act 271.

Series E-228: ACT 274

An Act Providing a Life Pension for Antone Manuel.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The treasurer of the Territory is hereby authorized and directed to pay each month to **Antone Manuel** for the period of his natural life, subject to the provisions of chapter 14 of the Revised Laws of Hawaii 1945, upon warrants which the territorial auditor is hereby authorized and directed to issue, a monthly pension of seventy-five dollars. Moneys to pay for the pension provided by this Act for Antone Manuel are hereby appropriated from the territorial general fund.

Section 2. This Act shall take effect upon its approval; provided that no pension shall be payable under this Act until the said Antone Manuel shall have ceased to be a full-time salaried employee of the Territory.

(Approved May 22, 1945.) H.B. 591, Act 274.

Series E-229: ACT 34

An Act Providing a Pension of One Hundred Dollars (\$100.00) per Month for William C. Vannatta.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The treasurer of the Territory of Hawaii is authorized and directed to pay each month to **William C. Vannatta**, and continuing throughout his natural life (subject to the provisions of sections 621 to 633, both inclusive, of the Revised Laws of Hawaii 1945), upon warrants which the territorial auditor is authorized and directed to issue, a pension in the sum of one hundred dollars (\$100.00), and moneys to cover said pension are hereby appropriated from the territorial general fund.

Section 2. This Act shall take effect upon its approval.
(Became effective April 24, 1945, without the Governor's signature.)

S.B. 64, Act 34.

PART F: TEMPORAL ACTS.

1. GENERAL APPROPRIATIONS.

[Note: For other appropriations see Index: "Appropriations".]

Series F-230: ACT 272

1945-1947

[BIENNIAL APPROPRIATION.]

An Act Making Appropriations Out of the General Revenues for the Biennial Period Ending June 30, 1947, and for Deficiencies in the Biennial Period Ending June 30, 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the following sums, or so much thereof as may be necessary, respectively, are hereby appropriated for the objects and purposes hereinafter specified for the biennial period ending June 30, 1947, out of the moneys in the treasury received from general revenues:

BOARD OF AGRICULTURE AND FORESTRY

| | | |
|---|------------|----------------------|
| Board of Administration | | \$ 113,053.00 |
| A. Personal services | 89,918.00 | |
| President | 15,600.00 | |
| Other personal services | 74,318.00 | |
| B. Other current expenses | 21,285.00 | |
| C. Equipment | 1,850.00 | |
| Motor vehicles | 1,000.00 | |
| Other equipment | 850.00 | |
| Division of Animal Industry | | 155,468.00 |
| A. Personal services | 119,828.00 | |
| B. Other current expenses | 21,390.00 | |
| C. Equipment | 3,750.00 | |
| Motor vehicles | 1,000.00 | |
| Other equipment | 2,750.00 | |
| E. Structures and permanent improvements to land | 3,000.00 | |
| G. Rights and obligations | 7,500.00 | |

(AGRICULTURE AND FORESTRY, continued)

| | | |
|---|------------|------------------------|
| Division of Entomology | | \$ 192,779.00 |
| A. Personal services | 154,119.00 | |
| B. Other current expenses | 34,260.00 | |
| C. Equipment | 4,400.00 | |
| Motor vehicles | 3,400.00 | |
| Other equipment | 1,000.00 | |
| Division of Forestry | | 375,108.00 |
| A. Personal services | 313,433.00 | |
| B. Other current expenses | 48,775.00 | |
| C. Equipment | 2,900.00 | |
| Motor vehicles | 2,000.00 | |
| Other equipment | 900.00 | |
| E. Structures and permanent improvements to land | 10,000.00 | |
| Forest reserve fences | 10,000.00 | |
| Division of Marketing | | 76,435.00 |
| A. Personal services | 55,435.00 | |
| B. Other current expenses | 15,000.00 | |
| C. Equipment | 6,000.00 | |
| Division of Fish and Game | | 100,232.00 |
| A. Personal services | 82,847.00 | |
| B. Other current expenses | 12,985.00 | |
| C. Equipment | 4,400.00 | |
| Motor vehicles | 3,000.00 | |
| Other equipment | 1,400.00 | |
| Total: Board of Agriculture and Forestry | | \$ 1,013,075.00 |

ATTORNEY GENERAL

| | | |
|--|------------|----------------------|
| Attorney General's Office | | \$ 166,113.00 |
| A. Personal services | 149,513.00 | |
| Attorney General | 19,800.00 | |
| Other personal services | 129,713.00 | |
| B. Other current expenses | 10,600.00 | |
| C. Equipment | 6,000.00 | |
| Total: Attorney General | | \$ 166,113.00 |

AUDITING DEPARTMENT

| | | |
|---|------------|---------------|
| Auditor's Office | | \$ 274,160.00 |
| A. Personal services | 246,127.00 | |
| Auditor | 16,200.00 | |
| Deputy auditor | 15,000.00 | |
| Other personal services | 214,927.00 | |
| B. Other current expenses | 27,425.00 | |
| C. Equipment | 608.00 | |
| Veterans, Hawaii Guard 1893-1898 | | 30,000.00 |
| A. Personal services | 360.00 | |
| Pensioner who handles welfare work | 360.00 | |
| F. Fixed charges | 29,640.00 | |
| Pensions | 29,640.00 | |
| Permanent pensions | | 40,464.00 |
| F. Fixed charges | 40,464.00 | |
| Permanent pensions | 40,464.00 | |
| Total: Auditing Department | | \$ 344,624.00 |

BUREAU OF THE BUDGET

| | | |
|-----------------------------------|------------|---------------|
| Bureau proper | | \$ 138,591.00 |
| A. Personal services | 123,877.00 | |
| Director | 17,000.00 | |
| Other personal services | 106,877.00 | |
| B. Other current expenses | 12,854.00 | |
| C. Equipment | 1,860.00 | |
| Revolving fund | | 250,000.00 |
| Total: Bureau of the Budget | | \$ 388,591.00 |

CIVIL SERVICE COMMISSION AND
PERSONNEL CLASSIFICATION BOARD

| | | |
|---|-----------|--------------|
| Civil Service Commission and Personnel Classification Board | | \$ 96,766.00 |
| A. Personal services | 83,591.00 | |
| B. Other current expenses | 12,175.00 | |
| C. Equipment | 1,000.00 | |
| Total: Civil Service Commission and Personnel Classification Board | | \$ 96,766.00 |

EMPLOYEES' RETIREMENT SYSTEM

| | | |
|---|--------------|------------------------|
| Employees' Retirement System | | \$ 2,994,948.00 |
| A. Personal services | 119,384.00 | |
| B. Other current expenses | 14,400.00 | |
| C. Equipment | 24,135.00 | |
| F. Fixed charges | 2,837,029.00 | |
| Permanent pensions under Act 261, Session Laws of 1925 and Act 31, Session Laws of 1927 | 18,168.00 | |
| Contributions to pension accumulation fund | 2,733,861.00 | |
| Contributions to annuity savings fund on account of members on military leave — Act 72, Special Session Laws of 1941 | 85,000.00 | |
| Total: Employees' Retirement System | | \$ 2,994,948.00 |

EXECUTIVE DEPARTMENT

| | | |
|--|-----------|----------------------|
| Governor's Office and Washington Place | | \$ 55,000.00 |
| B. Other current expenses | 55,000.00 | |
| To be expended at the discretion of the governor. | | |
| Governor's Contingent Fund | | 500,000.00 |
| From which expenditures may be made only with the approval of the governor for one or more of the follow- ing purposes: (a) for urgent needs for which no specific appropriation or an insufficient appropriation is made herein or otherwise; or (b) to augment departmental appropriations to cover the salaries of additional personnel in any department when needed, for the hiring of substitutes for regular per- sonnel on authorized leave, to meet any personnel adjustments should the emergency end during the ensuing biennium; or (c) for any other pur- poses; a detailed account of all of which expenditures shall be submitted to the next legislature. | | |
| Total: Executive Department | | \$ 555,000.00 |

BOARD OF HARBOR COMMISSIONERS

| | | |
|--|------------|----------------------|
| Board of Harbor Commissioners—Proper | | \$ 39,493.00 |
| A. Personal services | 34,288.00 | |
| B. Other current expenses | 5,205.00 | |
| | <hr/> | |
| Maintenance and additions, landings, wharves and pipe lines and other property under the control of the board of harbor com- missioners | | 503,719.00 |
| A. Personal services | 287,636.00 | |
| B. Other current expenses | 195,983.00 | |
| C. Equipment | 20,100.00 | |
| | <hr/> | |
| Motor vehicles | 13,100.00 | |
| Other equipment | 7,000.00 | |
| | <hr/> | |
| Harbor Masters and Pilots | | 157,680.00 |
| A. Personal services | 124,355.00 | |
| B. Other current expenses | 31,825.00 | |
| C. Equipment | 1,500.00 | |
| | <hr/> | |
| Motor vehicles | 1,500.00 | |
| | <hr/> | |
| Transfers to Harbor Board Special Fund, Act 142, Session Laws of Hawaii, 1941 | | 90,379.00 |
| Total: Board of Harbor Commissioners | | \$ 791,271.00 |

HAWAII EQUAL RIGHTS COMMISSION

| | | |
|--|-----------|---------------------|
| Hawaii Equal Rights Commission | | \$ 68,925.00 |
| A. Personal services | 38,175.00 | |
| B. Other current expenses | 29,750.00 | |
| C. Equipment | 1,000.00 | |
| | <hr/> | |
| Total: Hawaii Equal Rights Commission | | \$ 68,925.00 |

The appropriation for the Hawaii Equal Rights Commission shall be available and expendable only in the event House Bill No. 130 becomes law.

[Note: H.B. 130 did not pass.]

HAWAIIAN HOMES COMMISSION

| | | |
|---|-----------|---------------------|
| Hawaiian Homes Commission | | \$ 88,731.00 |
| Contribution to administration account | 83,061.00 | |
| To supplement receipts from rentals of available lands to balance the commission's administration budget for the biennium 1945-1947 which is hereby approved in the amount of \$203,061.00. Provided , however, that this contribution shall be reduced to the extent that said receipts from rentals of available lands for the Hawaiian homes administration's account shall exceed the sum of \$120,000.00 during the biennium. | | |
| E. Structures and permanent improvements to land | 5,670.00 | |
| Buildings | 3,000.00 | |
| Other improvements to land | 2,670.00 | |
| Total: Hawaiian Homes Commission | | \$ 88,731.00 |

BOARD OF HEALTH

| | | |
|--|------------|----------------------|
| General Administration | | \$ 133,447.00 |
| A. Personal services | 105,074.00 | |
| President | 17,000.00 | |
| Director of public health.... | 15,600.00 | |
| Other personal services | 72,474.00 | |
| B. Other current expenses | 22,830.00 | |
| C. Equipment | 2,043.00 | |
| Other equipment | 2,043.00 | |
| E. Structures and permanent improvements to land | 3,500.00 | |
| Sewer systems | 3,500.00 | |
| Bureau of Vital Statistics | | 58,576.00 |
| A. Personal services | 46,328.00 | |
| B. Other current expenses | 10,963.00 | |
| C. Equipment | 1,285.00 | |
| Tuberculosis Bureau | | 131,277.00 |
| A. Personal services | 72,508.00 | |
| B. Other current expenses | 51,834.00 | |
| C. Equipment | 6,935.00 | |
| Motor vehicles | 1,800.00 | |
| Other equipment | 5,135.00 | |

(HEALTH, continued)

| | | |
|--|------------|----------------------|
| Bureau of Public Health Nursing | | \$ 511,978.00 |
| A. Personal services | 450,511.00 | |
| B. Other current expenses | 50,062.00 | |
| C. Equipment | 11,400.00 | |
| Motor vehicles | 10,000.00 | |
| Other equipment | 1,400.00 | |
| Plague and Typhus Control | | 483,324.00 |
| A. Personal services | 440,997.00 | |
| B. Other current expenses | 40,685.00 | |
| C. Equipment | 1,642.00 | |
| Other equipment | 1,642.00 | |
| Up to \$99,710.00 may be expended from "A" account to employ inspectors, general laborers, a sanitary engineer, a foreman and others, only if office of civilian defense funds are not used. | | |
| Bureau of Communicable Diseases | | 102,289.00 |
| A. Personal services | 65,204.00 | |
| B. Other current expenses | 35,775.00 | |
| C. Equipment | 1,310.00 | |
| Division of Venereal Disease Control | | 46,491.00 |
| A. Personal services | 39,701.00 | |
| B. Other current expenses | 6,790.00 | |
| Bureau of Maternal and Child Health | | 50,070.00 |
| A. Personal services | 21,180.00 | |
| B. Other current expenses | 28,690.00 | |
| C. Equipment | 200.00 | |
| Division of Pure Food and Drugs | | 38,879.00 |
| A. Personal services | 32,072.00 | |
| B. Other current expenses | 4,227.00 | |
| C. Equipment | 2,580.00 | |
| Board of Examiners | | 150.00 |
| B. Other current expenses | 150.00 | |
| Bureau of Mental Hygiene | | 117,853.00 |
| A. Personal services | 94,711.00 | |
| B. Other current expenses | 21,962.00 | |
| C. Equipment | 1,180.00 | |
| Other equipment | 1,180.00 | |
| Bureau of Sanitation | | 316,964.00 |
| A. Personal services | 280,270.00 | |
| B. Other current expenses | 35,312.00 | |
| C. Equipment | 1,382.00 | |
| Other equipment | 1,382.00 | |

(HEALTH, continued)

| | | |
|--|-----------|------------------------|
| Government Physicians | | \$ 99,575.00 |
| A. Personal services | 93,000.00 | |
| B. Other current expenses | 6,575.00 | |
| Bureau of Crippled Children | | 50,000.00 |
| B. Other current expenses | 50,000.00 | |
| Total: Board of Health | | \$ 2,140,868.00 |

BOARD OF HOSPITALS AND SETTLEMENT

| | | |
|--|------------|---------------------|
| General Administration | | \$ 43,653.00 |
| A. Personal services | 39,625.00 | |
| B. Other current expenses | 3,930.00 | |
| C. Equipment | 100.00 | |
| Kalaupapa Settlement | | 983,590.00 |
| A. Personal services | 446,720.00 | |
| B. Other current expenses | 493,150.00 | |
| C. Equipment | 24,270.00 | |
| Motor vehicles | 7,800.00 | |
| Other equipment | 16,470.00 | |
| F. Fixed charges | 19,450.00 | |
| Grants, subsidies and contributions | 19,450.00 | |
| Kalihi Hospital | | 154,888.00 |
| A. Personal services | 94,288.00 | |
| B. Other current expenses | 55,950.00 | |
| C. Equipment | 3,450.00 | |
| F. Fixed charges | 1,200.00 | |
| Grants, subsidies and contributions | 1,200.00 | |
| Rental, Kalihi Site | | 3,240.00 |
| B. Other current expenses | 3,240.00 | |
| Parole and Suspect Division | | 12,934.00 |
| A. Personal services | 7,734.00 | |
| B. Other current expenses | 5,200.00 | |
| Board's Clinic | | 26,870.00 |
| A. Personal services | 22,120.00 | |
| B. Other current expenses | 4,650.00 | |
| C. Equipment | 100.00 | |
| Welfare Division | | 7,090.00 |
| A. Personal services | 6,740.00 | |
| B. Other current expenses | 350.00 | |
| Kalaupapa store | | 5,000.00 |
| B. Other current expenses | 5,000.00 | |

(HOSPITALS AND SETTLEMENTS, continued)

| | |
|---|------------------------|
| Upkeep of Church Yards and Chapels | \$ 1,500.00 |
| A. Other personal services | 1,500.00 |
| Care and Placement of Dependent Children under the care and custody of the Board of Hospitals and Settlement | 27,210.00 |
| B. Other current expenses | 27,210.00 |
| Aiding Indigent Persons released from Kalihi Hospital and Kalaupapa Settlement | 1,200.00 |
| F. Fixed charges | 1,200.00 |
| Grants, subsidies and contributions | 1,200.00 |
| Relief of persons released from Kalihi Hospital and Kalaupapa Settlement | 1,050.00 |
| F. Fixed charges | 1,050.00 |
| Grants, subsidies and contributions | 1,050.00 |
| Repairs and Maintenance, Father Damien Memorial | 3,000.00 |
| B. Other current expenses | 3,000.00 |
| Total: Board of Hospitals and Settlement | \$ 1,271,227.00 |

DEPARTMENT OF INSTITUTIONS

| | |
|---|----------------------|
| Office of Director | \$ 101,322.00 |
| A. Personal services | 91,427.00 |
| Director | 17,000.00 |
| Other personal services | 74,427.00 |
| B. Other current expenses | 7,950.00 |
| C. Equipment | 1,945.00 |
| Waimano Home | 963,759.00 |
| A. Personal services | 494,619.00 |
| B. Other current expenses | 291,060.00 |
| C. Equipment | 20,480.00 |
| Motor vehicles | 2,600.00 |
| Other equipment | 17,880.00 |
| E. Structures and permanent improvements to land | 157,600.00 |
| Waterworks | 4,000.00 |
| Irrigation systems | 2,600.00 |
| Building | 1,000.00 |
| New construction and equipment | 150,000.00 |

(INSTITUTIONS, continued)

| | | |
|---|------------|------------------------|
| Territorial Hospital | | \$ 1,280,520.00 |
| A. Personal services | 843,070.00 | |
| B. Other current expenses | 412,950.00 | |
| C. Equipment | 22,500.00 | |
| Motor vehicles | 5,000.00 | |
| Other equipment | 17,500.00 | |
| E. Structures and permanent improvements to land | 2,000.00 | |
| Buildings | 1,000.00 | |
| Highway and trails | 1,000.00 | |
| Division of Parole and Homeplacement | | 141,864.00 |
| A. Personal services | 105,499.00 | |
| B. Other current expenses | 16,930.00 | |
| Homeplacements | 17,000.00 | |
| Waialeale training school..... | 7,500.00 | |
| Kawailoa training school.... | 7,500.00 | |
| Waimano Home | 2,000.00 | |
| C. Equipment | 2,435.00 | |
| Motor vehicles | 1,650.00 | |
| Other equipment | 785.00 | |
| Kawailoa Training School for Girls | | 293,308.00 |
| A. Personal services | 167,563.00 | |
| B. Other current expenses | 104,400.00 | |
| C. Equipment | 14,845.00 | |
| Motor vehicles | 3,000.00 | |
| Other equipment | 11,845.00 | |
| E. Structures and permanent improvements to land | 6,500.00 | |
| Highways and trails | 5,000.00 | |
| Other improvements to land | 1,500.00 | |
| Waialeale Training School for Boys | | 294,899.00 |
| A. Personal services | 159,269.00 | |
| B. Other current expenses | 106,500.00 | |
| C. Equipment | 4,130.00 | |
| E. Structures and permanent improvements to land | 25,000.00 | |
| Buildings | 14,400.00 | |
| Highways and trails | 4,000.00 | |
| Water works | 6,600.00 | |
| Oahu Prison | | 544,717.00 |
| A. Personal services | 328,547.00 | |
| B. Other current expenses | 209,100.00 | |
| C. Equipment | 7,070.00 | |

(INSTITUTIONS, continued)

Oahu Prison, cont.

C. Equipment, cont.

| | |
|-----------------------|----------|
| Motor vehicles | 2,500.00 |
| Other equipment | 4,570.00 |

| | | |
|---|------------|-----------------|
| Prisoners' Compensation | | \$ 17,000.00 |
| A. Personal services | 17,000.00 | |
| Waialae Prison Camp | | 72,488.00 |
| A. Personal services | 42,338.00 | |
| B. Other current expenses | 27,150.00 | |
| C. Equipment | 3,000.00 | |
| Kulani Prison Camp | | 200,000.00 |
| E. Structures and permanent improvements to land | 200,000.00 | |
| Olinda and Keanae Prison Camps | | 80,106.00 |
| A. Personal services | 44,706.00 | |
| B. Other current expenses | 32,700.00 | |
| C. Equipment | 2,700.00 | |
| Board of Paroles and Pardons | | 54,241.00 |
| A. Personal services | 50,361.00 | |
| B. Other current expenses | 3,750.00 | |
| C. Equipment | 130.00 | |
| Bureau of Crime Statistics and Identification | | 18,821.00 |
| A. Personal services | 16,921.00 | |
| B. Other current expenses | 1,450.00 | |
| C. Equipment | 450.00 | |
| Total: Department of Institutions | | \$ 4,063,045.00 |

QUASI-PUBLIC INSTITUTIONS

| | | |
|---|--------------|-----------------|
| F. Fixed Charges | | \$ 3,542,927.00 |
| Grants, subsidies and contributions | | |
| Kapiolani Maternity and Gynecological Hospital | 20,000.00 | |
| Kula Sanatorium | 575,000.00 | |
| Leahi Hospital | 1,533,115.00 | |
| Lunalilo Home | 80,000.00 | |
| Samuel Mahelona Memorial Hospital | 407,000.00 | |
| Puumaile Hospital | 714,787.00 | |
| Shingle Memorial Hospital | 36,000.00 | |
| Kauikeolani Children's Hospital | 29,200.00 | |
| Kuakini Hospital | 18,250.00 | |
| The Queen's Hospital | 67,525.00 | |
| Saint Francis Hospital | 36,500.00 | |
| G. N. Wilcox Memorial Hospital | 25,550.00 | |
| Total: Quasi-Public Institutions | | \$ 3,542,927.00 |

JUDICIAL DEPARTMENT

| | | |
|--|------------|------------------------|
| Supreme Court | | \$ 102,908.00 |
| A. Personal services | 50,760.00 | |
| B. Other current expenses | 28,950.00 | |
| C. Equipment | 23,198.00 | |
| | <hr/> | |
| District Court of Kalawao | | 2,425.00 |
| A. Personal services | 2,400.00 | |
| B. Other current expenses | 25.00 | |
| | <hr/> | |
| Land Court | | 39,190.00 |
| A. Personal services | 36,090.00 | |
| B. Other current expenses | 2,100.00 | |
| C. Equipment | 1,000.00 | |
| | <hr/> | |
| First Circuit Court (Honolulu) | | 801,959.00 |
| A. Personal services | 739,887.00 | |
| B. Other current expenses | 26,212.00 | |
| C. Equipment | 35,860.00 | |
| | <hr/> | |
| The appropriation for this circuit shall be allotted between general court requirements and the special requirements of the division of domestic relations, by the Director of the Bureau of the Budget with the approval of the Governor. | | |
| [See Act 142, D-154.] | | |
| Second Circuit Court (Maui) | | 181,550.00 |
| A. Personal services | 98,450.00 | |
| B. Other current expenses | 51,600.00 | |
| C. Equipment | 2,500.00 | |
| E. Improvements | 18,000.00 | |
| Circuit court | 8,000.00 | |
| Detention home | 10,000.00 | |
| | <hr/> | |
| F. Fixed charges | 11,000.00 | |
| | <hr/> | |
| Third Circuit Court (Hawaii) | | 143,010.00 |
| A. Personal services | 98,010.00 | |
| B. Other current expenses | 45,000.00 | |
| | <hr/> | |
| Fifth Circuit Court (Kauai) | | 87,340.00 |
| A. Personal services | 55,340.00 | |
| B. Other current expenses | 28,800.00 | |
| C. Equipment | 3,200.00 | |
| | <hr/> | |
| Total: Judicial Department | | \$ 1,358,382.00 |
| | | <hr/> |

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

| | | |
|---|------------|---------------|
| Department of Labor and Industrial Relations..... | | \$ 325,515.00 |
| A. Personal services | 281,085.00 | |
| Executive | 15,600.00 | |
| Attorney | 12,000.00 | |
| Other personal services | 253,485.00 | |
| B. Other current expenses | 40,270.00 | |
| C. Equipment | 4,160.00 | |
| Total: Department of Labor and Industrial Relations | | \$ 325,515.00 |

LIBRARIES

| | | |
|---|------------|---------------|
| Library of Hawaii | | \$ 378,064.00 |
| A. Personal services | 293,879.00 | |
| The above services shall include a blind library worker for work with the blind who shall be paid not less than \$122.50 per month. | | |
| B. Other current expenses | 35,500.00 | |
| C. Equipment | 48,685.00 | |
| Other equipment | 48,685.00 | |
| Hawaii County Library | | 92,662.00 |
| A. Personal services | 67,612.00 | |
| B. Other current expenses | 9,550.00 | |
| C. Equipment | 15,500.00 | |
| Maui County Free Library | | 86,800.00 |
| A. Personal services | 59,999.00 | |
| B. Other current expenses | 8,515.00 | |
| C. Equipment | 18,286.00 | |
| Kauai Public Library Association, Limited | | 63,460.00 |
| A. Personal services | 47,710.00 | |
| B. Other current expenses | 5,950.00 | |
| C. Equipment | 9,800.00 | |
| Total: Libraries | | \$ 620,986.00 |

MILITARY DEPARTMENT

| | | |
|----------------------------------|------------|---------------|
| Hawaii National Guard | | \$ 30,602.00 |
| A. Personal services | 30,602.00 | |
| Hawaii Territorial Guard | | 260,157.00 |
| A. Personal services | 207,832.00 | |
| B. Other current expenses | 52,325.00 | |
| Total: Military Department | | \$ 290,759.00 |

PUBLIC ARCHIVES

| | | |
|-------------------------------------|-----------|---------------------|
| Public Archives | | \$ 60,823.00 |
| A. Personal services | 50,288.00 | |
| B. Other current expenses | 4,035.00 | |
| C. Equipment | 6,500.00 | |
| Total: Public Archives | | \$ 60,823.00 |

DEPARTMENT OF PUBLIC INSTRUCTION

| | | |
|---------------------------------|---------------|----------------------|
| Administration | | \$ 473,760.00 |
| A. Personal services | 376,621.00 | |
| Superintendent | 17,000.00 | |
| Other personal services | 359,621.00 | |
| B. Other current expenses | 84,392.00 | |
| C. Equipment | 12,747.00 | |
| Instruction | | 14,196,201.00 |
| A. Personal services | 13,703,948.00 | |
| B. Other current expenses | 240,623.00 | |
| C. Equipment | 251,630.00 | |

Included in this total appropriation is the sum of \$139,380.00 for kindergartens, which sum shall be available and expendable only for the establishment and maintenance of kindergartens as follows:

- 4 Kindergartens in the Fourth Representative District
- 3 Kindergartens in the Fifth Representative District
- 2 Kindergartens in East Hawaii
- 2 Kindergartens in West Hawaii
- 2 Kindergartens on the Island of Maui
- 2 Kindergartens on the Island of Kauai
- 1 Kindergarten on the Island of Molokai

| | | |
|---------------------------------|------------|-------------------|
| Auxiliary Services | | 921,738.00 |
| A. Personal services | 748,449.00 | |
| B. Other current expenses | 147,645.00 | |
| C. Equipment | 25,644.00 | |

Included in this total appropriation for auxiliary services is the sum of \$40,000.00 for adult education, which sum shall be available and expendable only in the event Senate Bill No. 323 becomes law, and the sum of \$38,400.00 for dental hygiene, which latter sum shall be available and expendable only in the event Senate Bill No. 243 becomes law.

[Note: S.B. 323 is Act 108, A-33; S.B. 243, Act 231, A-32.]

(PUBLIC INSTRUCTION, continued)

| | | |
|---|------------|--------------|
| Operation of School Plants | | \$ 13,870.00 |
| A. Personal services | 6,020.00 | |
| B. Other current expenses | 7,450.00 | |
| C. Equipment | 400.00 | |
| Maintenance of School Plants | | 12,580.00 |
| A. Personal services | 3,180.00 | |
| B. Other current expenses | 9,400.00 | |
| Capital Outlay | | 326,575.00 |
| C. Equipment | 5,675.00 | |
| D. Land and interest in land | 35,000.00 | |
| E. Structures and permanent improvements to land | 285,900.00 | |
| Honolulu vocational school | 1,400.00 | |
| Vocational schools | 284,500.00 | |

The above items are appropriated in addition to any other appropriations for the same schools, and any part or all of the work for which any part of said items of appropriation may be expended may be performed by students attending the schools concerned. In the expenditure of said items the department of public instruction shall not be required to comply with the provisions of sections 351 to 363, inclusive, of the Revised Laws of Hawaii 1945.

| | | |
|---------------------------------|----------|----------|
| Fixed Charges | | 2,000.00 |
| B. Other current expenses | 2,000.00 | |

From which expenditures may be made to pay any medical, hospital or nursing expense arising from the treatment of personal injury received by any pupil of a public school where such injury arose out of and in the course of the performance of work by such pupil, to which work he was duly assigned by a teacher or other school official at or in connection with such public school or its facilities.

| | | |
|---|--|------------------|
| Total: Department of Public Instruction | | \$ 15,946,724.00 |
|---|--|------------------|

DEPARTMENT OF PUBLIC LANDS AND SURVEY

| | |
|--|----------------------|
| Public Land and Survey Office | \$ 315,699.00 |
| A. Personal services | 285,119.00 |
| Commissioner of public lands and territorial surveyor | 16,200.00 |
| Other personal services | 268,919.00 |
| B. Other current expenses | 25,350.00 |
| C. Equipment | 5,230.00 |
| Motor vehicles | 1,000.00 |
| Other equipment | 4,230.00 |
| Taxation Maps Bureau | 94,903.00 |
| A. Personal services | 88,093.00 |
| B. Other current expenses | 5,850.00 |
| C. Equipment | 960.00 |
| Division of Hydrography | 66,813.00 |
| A. Personal services | 46,633.00 |
| B. Other current expenses | 20,180.00 |
| Investigation of water resources in cooperation with the United States Geological Survey | 38,060.00 |
| B. Other current expenses | 38,060.00 |
| Public Lands | 450,000.00 |
| Transfers to Hawaiian Homes loan fund | 330,000.00 |
| Transfers to Hawaiian Homes administration fund | 120,000.00 |
| Total: Department of Public Lands and Survey.... | \$ 965,475.00 |

DEPARTMENT OF PUBLIC WORKS

| | |
|---|---------------------|
| Office of the Superintendent | \$ 75,464.00 |
| A. Personal services | 67,849.00 |
| Superintendent | 17,000.00 |
| Other personal services | 50,849.00 |
| B. Other current expenses | 6,310.00 |
| C. Equipment | 1,305.00 |
| Public Buildings and Grounds Service | 196,392.00 |
| A. Personal services | 181,392.00 |
| B. Other current expenses | 15,000.00 |

(PUBLIC WORKS, continued)

| | | |
|---|------------|----------------------|
| Structures, additions, maintenance, repairs to and tearing down or removal of government property (including airports, armories, war memorials) and improvements to ground)..... | | \$ 362,109.00 |
| A. Personal services | 51,863.00 | |
| B. Other current expenses | 257,526.00 | |
| C. Equipment | 22,720.00 | |
| Motor vehicles | 1,700.00 | |
| Other equipment | 21,020.00 | |
| E. Structures and permanent improvements to land | 30,000.00 | |
| Buildings | 10,000.00 | |
| Highways and trails | 20,000.00 | |
| Governor's Office and Washington Place | | 33,000.00 |
| C. Equipment | 3,000.00 | |
| E. Structures and permanent improvements to land | 30,000.00 | |
| Buildings | 10,000.00 | |
| Other improvements to land | 20,000.00 | |
| Total: Department of Public Works | | \$ 666,965.00 |
| RADIO COMMISSION | | |
| Radio Commission | | \$ 46,451.00 |
| A. Personal services | 35,296.00 | |
| B. Other current expenses | 8,655.00 | |
| C. Equipment | 2,500.00 | |
| Total: Radio Commission | | \$ 46,451.00 |
| SECRETARY OF HAWAII | | |
| Secretary of Hawaii | | \$ 5,800.00 |
| A. Personal services | 5,800.00 | |
| Secretary's Office | | 39,508.00 |
| A. Personal services | 35,908.00 | |
| B. Other current expenses | 3,000.00 | |
| C. Equipment | 600.00 | |
| Expenses of Elections | | 51,300.00 |
| A. Personal services | 36,300.00 | |
| B. Other current expenses | 14,000.00 | |
| C. Equipment | 1,000.00 | |
| Publication, Session Laws of Hawaii | | 31,000.00 |
| A. Personal services | 6,000.00 | |
| B. Other current expenses | 25,000.00 | |
| Total: Secretary of Hawaii | | \$ 127,608.00 |

TAX COMMISSIONER

| | | |
|--|--------------|------------------------|
| Tax Commissioner's Office | | \$ 1,422,422.00 |
| A. Personal services | 1,265,442.00 | |
| Tax commissioner | 17,000.00 | |
| Other personal services | 1,248,442.00 | |
| B. Other current expenses | 132,500.00 | |
| C. Equipment | 24,480.00 | |
| Motor vehicles | 4,000.00 | |
| Other equipment | 20,480.00 | |
| Boards of Review and Tax Appeal Court | | 15,000.00 |
| B. Current expenses | 15,000.00 | |
| Total: Tax Commissioner | | \$ 1,437,422.00 |

TREASURY DEPARTMENT

| | | |
|---|--------------|------------------------|
| Treasurer's Office | | \$ 97,459.00 |
| A. Personal services | 86,479.00 | |
| Treasurer | 16,200.00 | |
| Other personal services | 70,279.00 | |
| B. Other current expenses | 10,180.00 | |
| C. Equipment | 800.00 | |
| Deputy Bank Examiner | | 114,750.00 |
| A. Personal services | 102,575.00 | |
| B. Other current expenses | 11,400.00 | |
| C. Equipment | 775.00 | |
| Fire Marshal | | 27,241.00 |
| A. Personal services | 19,141.00 | |
| B. Other current expenses | 6,000.00 | |
| C. Equipment | 2,100.00 | |
| Motor vehicles | 1,650.00 | |
| Other equipment | 450.00 | |
| Bureau of Conveyances | | 229,078.00 |
| A. Personal services | 206,525.00 | |
| B. Other current expenses | 14,878.00 | |
| C. Equipment | 7,675.00 | |
| Expenses Official Bonds | | 16,000.00 |
| B. Other current expenses | 16,000.00 | |
| Public Debt Service | | 16,975.00 |
| B. Other current expenses | 16,975.00 | |
| Interest on Bonded Debt | | 1,875,613.00 |
| F. Fixed charges | 1,875,613.00 | |
| Retirement of Bonded Debt | | 2,567,939.00 |
| F. Fixed charges | 2,567,939.00 | |
| Territorial Insurance Fund | | 40,000.00 |
| F. Fixed charges | 40,000.00 | |
| Total: Treasury Department | | \$ 4,985,055.00 |

UNIVERSITY OF HAWAII

University of Hawaii\$ 2,235,057.00

All functions expendable at the direction and under the supervision of the Board of Regents of the University of Hawaii. **Provided**, however, that the amount of this appropriation necessary to match allotments made by the Federal government for extension work shall be payable to the University of Hawaii in total, by single warrant, or by several warrants, representing periodical allotments. **Provided**, further, that disbursements matching Federal allotments may be regularly audited by the Federal auditor and shall be subject to the same limitations as respects the character of expenditures of the Federal funds which it offsets, and **provided**, further, that \$2,000.00 shall be expended for rat eradication in Kona and that the Agricultural Extension Service through its county agent shall give careful and particular attention to the problems of the coffee growers in this district, and **provided**, further, that this total appropriation includes the sum of \$10,800.00 for volcanology and that the university may employ a volcanologist without consideration as to age, any other provision of law to the contrary notwithstanding.

Total: University of Hawaii\$ 2,235,057.00

GRAND TOTAL OF TOTALS\$ 46,593,333.00

Section 2. The following sums are hereby appropriated out of the moneys in the treasury, received from the general revenues, for deficiencies for the biennial period ending June 30, 1945, in the following amounts for the following institutions:

Kula Sanatorium \$23,000.00

Leahi Hospital 31,800.00

Section 3. Changes and transfers may be made by the head of a department or establishment with the approval of the governor, within the foregoing schedule of appropriations (a) for any organization unit of such department or establishment from any subdivision of appropriations for such unit to any other subdivision of such appropriations for the same unit, or (b) from one such unit to another within the same department or establishment, or (c) both.

Provided, however, that, in cases where no appropriation is made for "equipment" for such organization unit of a department or establishment, the head of such department or establishment may, with the approval of the governor, create such appropriation by changes or transfers from "personal services" or "other current expenses", or both.

Section 4. This Act shall take effect as to the appropriations made in section 2 hereof upon its approval, and as to the remainder thereof from and after July 1, 1945.

(Approved May 22, 1945.) H.B. 32, Act 272.

Series F-231: ACT 20

An Act Appropriating Funds to Cover Certain Deficiencies for Governmental Purposes for the Current and Preceding Bienniums, for Which No Funds or Insufficient Funds Were Appropriated.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the following sums, or so much thereof as may be necessary, respectively, are hereby appropriated for the objects and purposes hereinafter specified, in addition to any appropriations made for the same or similar purposes by any other act, out of moneys in the treasury received from general revenues:

BOARD OF AGRICULTURE AND FORESTRY

| | | |
|--|-----------|--------------|
| Board of Administration | | \$ 10,870.00 |
| A. Personal services | 9,639.00 | |
| B. Other current expenses | 1,231.00 | |
| Division of Animal Industry | | 20,958.00 |
| A. Personal services | 14,742.00 | |
| B. Other current expenses | 1,216.00 | |
| C. Rights and obligations | 5,000.00 | |
| Division of Entomology (proper) | | 14,916.00 |
| A. Personal services | 14,916.00 | |
| Eradication of Giant African Snails | | 241.00 |
| A. Personal services | 241.00 | |
| Eradication of Crayfish | | 370.00 |
| A. Personal services | 370.00 | |
| Division of Forestry | | 31,123.00 |
| A. Personal services | 31,123.00 | |
| Division of Fish and Game | | 6,150.00 |
| A. Personal services | 6,150.00 | |
| Total: Board of Agriculture and Forestry | | \$ 84,628.00 |

AUDITING DEPARTMENT

| | | |
|----------------------------------|-----------|--------------|
| Auditor's Office | | \$ 32,477.00 |
| A. Personal services | 31,062.00 | |
| B. Other current expenses | 1,415.00 | |
| Total: Auditing Department | | \$ 32,477.00 |

BUREAU OF THE BUDGET

| | | |
|-----------------------------------|----------|-------------|
| Bureau of the Budget | | \$ 1,281.00 |
| B. Other current expenses | 1,281.00 | |
| Total: Bureau of the Budget | | \$ 1,281.00 |

CIVIL SERVICE COMMISSION

| | | |
|---------------------------------------|----------|-------------|
| Civil Service Commission | | \$ 6,017.00 |
| A. Personal services | 6,017.00 | |
| Total: Civil Service Commission | | \$ 6,017.00 |

EMPLOYEES' RETIREMENT SYSTEM

| | | |
|--|------------|---------------|
| Employees' Retirement System | | \$ 442,209.00 |
| A. Personal services | 6,029.00 | |
| F. Fixed charges | 30,392.00 | |
| Act 72, Special Session Laws of 1941—service credits and con- tributions for members on military leave | 24,394.00 | |
| Act 72, Special Session Laws of 1941—service credits and con- tributions for members on military leave (Act 99, Session Laws of 1943) | 5,998.00 | |
| Deficit Pension Accumulation Fund—Executive Order August 1, 1941; Act 88, Session Laws of 1941; Hawaii Defense Rule 33; Act 83, Special Session Laws of 1941; Act 103, Session Laws of 1941; Act 225, Session Laws of 1943 | 55,380.00 | |
| Deficit Pension Accumulation Fund—Act 225, Session Laws of 1943; Hawaii Defense Rule 59; Hawaii Defense Rule 88, January 1, 1944 | 350,408.00 | |
| Total: Employees' Retirement System | | \$ 442,209.00 |

GRANTS TO OTHER INSTITUTIONS

| | | |
|---|-----------|--------------|
| F. Fixed charges | | \$ 84,772.00 |
| Grants, subsidies and contributions | 84,772.00 | |
| Puumaille Home | 26,478.00 | |
| Kula Sanatorium | 37,108.00 | |
| Samuel Mahelona | | |
| Memorial Hospital | 21,186.00 | |
| Total: Grants to Other Institutions | | \$ 84,772.00 |

BOARD OF HARBOR COMMISSIONERS

| | | |
|---|-----------|---------------------|
| Board of Harbor Commissioners (proper) | | \$ 3,824.00 |
| A. Personal services | 3,824.00 | |
| Maintenance and additions, landings, wharves and pipelines and other property under the control of the Board of Harbor Commissioners | | 37,083.00 |
| A. Personal services | 24,083.00 | |
| B. Other current expenses | 13,000.00 | |
| Harbor Masters and Pilots | | 18,290.00 |
| A. Personal services | 11,323.00 | |
| B. Other current expenses | 6,967.00 | |
| Total: Board of Harbor Commissioners | | \$ 59,197.00 |

HAWAIIAN HOMES COMMISSION

| | | |
|---|-----------|---------------------|
| Hawaiian Homes Commission | | \$ 24,630.00 |
| A. Personal services | 24,630.00 | |
| Total: Hawaiian Homes Commission | | \$ 24,630.00 |

BOARD OF HEALTH

| | | |
|--|-----------|---------------------|
| General Administration | | \$ 17,189.00 |
| A. Personal services | 14,891.00 | |
| B. Other current expenses | 2,298.00 | |
| Bureau of Vital Statistics | | 3,042.00 |
| A. Personal services | 3,042.00 | |
| Tuberculosis Bureau | | 16,183.00 |
| A. Personal services | 6,183.00 | |
| B. Other current expenses | 10,000.00 | |
| Bureau of Public Health Nursing | | 30,191.00 |
| A. Personal services | 24,191.00 | |
| B. Other current expenses | 6,000.00 | |
| Plague Campaign | | 25,618.00 |
| A. Personal services | 25,618.00 | |
| Bureau of Communicable Diseases | | 2,719.00 |
| B. Other current expenses | 2,719.00 | |
| Bureau of Pure Food and Drugs | | 2,926.00 |
| A. Personal services | 2,926.00 | |
| Bureau of Mental Hygiene | | 2,226.00 |
| A. Personal services | 2,226.00 | |
| Bureau of Sanitation | | 33,128.00 |
| A. Personal services | 33,128.00 | |

(HEALTH, continued)

| | | |
|--------------------------------|----------|---------------|
| Government Physicians | | \$ 6,905.00 |
| A. Personal services | 6,905.00 | |
| Venereal Disease Control | | 2,851.00 |
| A. Personal services | 2,851.00 | |
| Total: Board of Health | | \$ 142,978.00 |

OFFICE OF HIGH SHERIFF

| | | |
|-------------------------------------|--------|-----------|
| Office of High Sheriff | | \$ 525.00 |
| A. Personal services | 525.00 | |
| Total: Office of High Sheriff | | \$ 525.00 |

BOARD OF HOSPITALS AND SETTLEMENT

| | | |
|--|-----------|--------------|
| Kalaupapa Settlement | | \$ 25,878.00 |
| A. Personal services | 25,878.00 | |
| Kalihi Hospital | | 1,460.00 |
| A. Personal services | 1,460.00 | |
| Parole and Suspect Division | | 1,809.00 |
| A. Personal services | 1,809.00 | |
| Total: Board of Hospitals and Settlement | | \$ 29,147.00 |

DEPARTMENT OF INSTITUTIONS

| | | |
|--|-----------|--------------|
| Office of Director | | \$ 2,101.00 |
| A. Personal services | 2,101.00 | |
| Territorial Hospital | | 16,715.00 |
| A. Personal services | 16,715.00 | |
| Division of Parole and Homeplacement | | 4,042.00 |
| A. Personal services | 4,042.00 | |
| Kawailoa Training School for Girls | | 33,515.00 |
| A. Personal services | 33,515.00 | |
| Waialeale Training School for Boys | | 8,055.00 |
| A. Personal services | 8,055.00 | |
| Oahu Prison | | 9,750.00 |
| A. Personal services | 9,750.00 | |
| Waiakea Prison Camp | | 6,312.00 |
| A. Personal services | 6,312.00 | |
| Olinda Prison Camp | | 6,075.00 |
| A. Personal services | 1,490.00 | |
| B. Other current expenses | 4,585.00 | |
| Board of Paroles and Pardons | | 2,580.00 |
| A. Personal services | 2,580.00 | |
| Total: Department of Institutions | | \$ 89,145.00 |

JUDICIAL DEPARTMENT

| | | |
|---|----------|--------------------|
| Supreme Court | | \$ 5,231.00 |
| A. Personal services | 5,231.00 | |
| District Court of Kalawao | | 375.00 |
| A. Personal services | 375.00 | |
| Total: Judicial Department | | \$ 5,606.00 |

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

| | | |
|--|-----------|---------------------|
| Department of Labor and Industrial Relations | | \$ 21,920.00 |
| A. Personal services | 21,920.00 | |
| Total: Department of Labor and Industrial Relations | | \$ 21,920.00 |

LIBRARIES

| | | |
|--|-----------|---------------------|
| Library of Hawaii | | \$ 32,503.00 |
| A. Personal services | 32,503.00 | |
| Hawaii County Library | | 7,540.00 |
| A. Personal services | 7,540.00 | |
| Kauai Public Library Association, Limited | | 5,626.00 |
| A. Personal services | 5,626.00 | |
| Total: Libraries | | \$ 45,669.00 |

PUBLIC ARCHIVES

| | | |
|-------------------------------------|----------|--------------------|
| Public Archives | | \$ 5,381.00 |
| A. Personal services | 5,381.00 | |
| Total: Public Archives | | \$ 5,381.00 |

DEPARTMENT OF PUBLIC INSTRUCTION

| | | |
|--|-----------|---------------------|
| General Administration | | \$ 23,459.00 |
| A. Personal services | 20,859.00 | |
| B. Other current expenses | 2,600.00 | |
| Territorial School for Deaf and Blind | | 7,593.00 |
| A. Personal services | 7,593.00 | |
| Division of Health Education | | 1,767.00 |
| A. Personal services | 1,767.00 | |
| Division of Dental Hygiene | | 3,624.00 |
| A. Personal services | 3,624.00 | |
| Honolulu Vocational School | | 345.00 |
| A. Personal services | 345.00 | |

(PUBLIC INSTRUCTION, continued)

| | | |
|---|------------|-----------------|
| Salaries of Teachers | | \$ 1,546,824.00 |
| A. Elementary teachers | 756,000.00 | |
| B. Intermediate teachers | 197,145.00 | |
| C. High school teachers | 253,425.00 | |
| D. Vocational teachers | 133,196.00 | |
| E. Principals | 25,175.00 | |
| F. Supervisors | 36,067.00 | |
| G. Secretaries | 57,400.00 | |
| H. Librarians | 35,416.00 | |
| I. Substitutes | 8,000.00 | |
| N. Cafeteria Managers | 45,000.00 | |
| Program of Instruction for Preschool Children (Act 220, S.L. 1943) | | 10,870.00 |
| A. Personal services | 10,870.00 | |
| Total: Department of Public Instruction | | \$ 1,594,482.00 |

DEPARTMENT OF PUBLIC LANDS AND SURVEY

| | | |
|---|-----------|--------------|
| Public Lands and Survey Department | | \$ 31,447.00 |
| A. Personal services | 28,199.00 | |
| B. Other current expenses | 3,000.00 | |
| C. Equipment | 248.00 | |
| Taxation Maps Bureau | | 8,724.00 |
| A. Personal services | 8,724.00 | |
| Division of Hydrography | | 6,752.00 |
| A. Personal services | 6,752.00 | |
| Total: Public Lands and Survey Department | | \$ 46,923.00 |

DEPARTMENT OF PUBLIC WORKS

| | | |
|--|-----------|--------------|
| Superintendent of Public Works | | \$ 8,073.00 |
| A. Personal services | 8,073.00 | |
| Public Buildings and Grounds Service | | 10,749.00 |
| A. Personal services | 10,749.00 | |
| Total: Department of Public Works | | \$ 18,822.00 |

DEPARTMENT OF SECRETARY OF HAWAII

| | | |
|--|----------|-------------|
| Secretary's Office | | \$ 4,296.00 |
| A. Personal services | 4,296.00 | |
| Salary, Secretary of Hawaii (Act 214, S.L. 1943) | | 750.00 |
| A. Personal services | 750.00 | |
| Total: Department of Secretary of Hawaii | | \$ 5,046.00 |

**BUREAU OF SIGHT CONSERVATION AND WORK
WITH THE BLIND**

| | | |
|--|----------|----------|
| Bureau of Sight Conservation and | | |
| Work with the Blind | \$ | 9,238.00 |
| To be expended by the Department of Public | | |
| Welfare with the approval of the governor | | |
| of Hawaii. | | |
| A. Personal services | 9,238.00 | |
| Total: Bureau of Sight Conservation and | | |
| Work with the Blind | \$ | 9,238.00 |

TAX COMMISSIONER'S DEPARTMENT

| | | |
|---|------------|-------------------|
| Tax Commissioner's Office | \$ | 145,641.00 |
| A. Personal services | 145,641.00 | |
| Delinquent Tax Bureau (Section 5122, R.L. 1945) | | 11,233.00 |
| A. Personal Services | 11,233.00 | |
| Total: Tax Commissioner's Department | \$ | 156,874.00 |

TREASURY DEPARTMENT

| | | |
|---|-----------|------------------|
| Treasurer's Office | \$ | 10,490.00 |
| A. Personal services | 10,490.00 | |
| Deputy Bank Examiner | | 658.00 |
| A. Personal services | 658.00 | |
| Insurance Commissioner' | | 1,433.00 |
| A. Personal services | 1,433.00 | |
| Bureau of Conveyances | | 20,321.00 |
| A. Personal services | 20,321.00 | |
| Total: Treasury Department | \$ | 32,902.00 |

UNIVERSITY OF HAWAII

| | | |
|--|------------|---------------------|
| University proper | \$ | 118,710.00 |
| A. Personal services | 118,710.00 | |
| Psychological Clinic | | 4,264.00 |
| A. Personal services | 4,264.00 | |
| Total: University of Hawaii | \$ | 122,974.00 |
| GRAND TOTAL OF TOTALS | \$ | 3,062,843.00 |

Section 2. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1945 shall be lapsed into the general fund of the Territory.

Section 3. This Act shall take effect upon its approval.
(Approved April 18, 1945.) S.B. 104, Act 20.

AIRPORTS.

Series F-232: ACT 153

An Act Providing for Construction, Grading and Surfacing of Airports at Kalaupapa, Molokai, Lihue, Kauai, Kailua, North Kona, Hawaii, and Hana, Maui, and for the Acquisition of Land, and Making Appropriations Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, the sum of fifty thousand dollars (\$50,000.00), or so much thereof as shall be necessary, for the grading and surfacing of an airport at Kalaupapa, Molokai.

Section 2. There is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, the sum of one hundred fifty thousand dollars (\$150,000.00), or so much thereof as shall be necessary, for the grading and surfacing of an airport at Lanai.

Section 3. Acquisition of land by purchase or condemnation for, and the construction of the Lihue Airport, County of Kauai, one hundred fifteen thousand dollars (\$115,000.00).

Section 4. Acquisition of land by purchase or condemnation for, and the construction of the Kailua Airport, District of North Kona, County of Hawaii, one hundred thousand dollars (\$100,000.00).

Section 5. There is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, the sum of one hundred fifty thousand dollars (\$150,000.00), or so much thereof as shall be necessary, for the grading and surfacing of an airport at Hana, Maui.

Section 6. This Act shall take effect upon its approval.

(Approved May 14, 1945.) **H.B. 296, Act 153.**

Series F-233: ACT 85

An Act Appropriating the Sum of Seventy-five Thousand Dollars Out of the General Funds of the Territory of Hawaii for the Expansion of Maui Airport.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of seventy-five thousand dollars is hereby appropriated out of the general revenues of the Territory of Hawaii not otherwise appropriated, for the expansion of Maui Airport, including acquisition of lands or interests therein.

Section 2. Said amount shall be disbursed on warrants drawn by the auditor upon vouchers approved by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.
(Approved May 5, 1945.) H.B. 513, Act 85.

PENSION INCREASE.

Series F-234: ACT 175

An Act Providing a Monthly Twenty-Five Dollar Bonus for Pensioners, and Appropriating Funds for Payment Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Monthly pension increase.** Every pension payable under the employees' retirement system of the Territory of Hawaii, or payable under or pursuant to any law of the Territory, or by any county, or independent public board or commission, shall be increased by a bonus of twenty-five dollars per month for the period commencing on the first day of the first month immediately succeeding the approval of this Act, and ending June 30, 1947, any provision in any other law to the contrary notwithstanding; **provided**, that where the dependents of a deceased pensioner are receiving pensions by reason of his death, the total only of all amounts paid to such dependents shall be so increased, and the increase herein provided for shall be shared by them in proportion to the respective amounts of pension receivable by them exclusive of this increase.

Section 2. The board of trustees of the employees' retirement system of the Territory of Hawaii, is hereby authorized and directed to pay the bonus required by this Act to pensioners under said system, the territorial auditor is hereby authorized and directed to pay the bonus required by this Act to all territorial pensioners who are not under said system, and the appropriate officer of each county, and each independent board or commission hereby affected, is hereby authorized and directed to pay the bonus hereby granted to pensioners whose pensions are payable by said respective counties, boards and commissions, all such payments to be made from allotments from the public welfare fund pursuant to section 3; and all such boards, commissions and officers are hereby directed to certify to the director of the bureau of the budget, promptly upon the enactment of this Act, the amounts required to meet such bonus payments to and including December 31, 1945, and to similarly certify the amounts required every six months, as directed by the bureau of the budget.

Section 3. There is hereby appropriated from the public welfare fund created by section 5358 of the Revised Laws of Hawaii 1945 sufficient moneys to pay the bonus provided for by this Act. Such appropriation shall be allotted by the director of the bureau of the budget, with the approval of the governor, to the several boards, commissions and officers required to make such payments, and in the case of the counties the moneys so allotted shall be paid into the county treasuries and held in special funds solely for such purpose.

Section 4. The expenditures herein authorized shall not be deemed expenditures from the public welfare fund within the meaning of the provisions of sections 4811 and 4812 of the Revised Laws of Hawaii 1945 restricting the amount of such expenditures, but the expenditures hereby authorized shall be deducted from tax receipts and surplus in determining the amount available for expenditure for public welfare purposes within the meaning of said sections.

Section 5. This Act shall take effect upon its approval.

(Approved May 15, 1945.) S.B. 9, Act 175.

CABLE-WAY, KALAUPAPA.

Series F-235: ACT 203

An Act Appropriating Six Thousand Dollars for Surveys and Plans for a Cable-Way or Trolley-Way at Kalaupapa, Molokai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of six thousand dollars for the survey and preparation of plans for a cable-way or trolley-way from the top of the pali above **Kalaupapa** into Kalaupapa Settlement, Molokai.

Section 2. The superintendent of public works shall have charge of the survey and the preparation of the plans and the moneys herein appropriated shall be expended upon warrants drawn by the auditor of the Territory of Hawaii upon vouchers approved by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.

(Approved May 17, 1945.) S.B. 366, Act 203.

CEMETERIES.

Series F-236: ACT 128

An Act Appropriating Three Thousand Four Hundred Eighty Dollars for the Upkeep of Puukamalii Cemetery, Makiki Cemetery and Aiea Cemetery, City and County of Honolulu, for the 1945-1947 Biennium.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of three thousand four hundred eighty dollars (\$3,480.00) to be expended upon the maintenance of the following cemeteries and in the amounts so designated.

1. **Puukamalii cemetery**, commonly known as Kalaepohaku cemetery, situate in McInerny Tract, Kapalama, city and county of Honolulu, as set aside by Executive Order No. 493, dated July 20, 1931, signed by Governor L. M. Judd—twenty-five dollars (\$25.00) per month.

2. **Makiki cemetery** situate in the north corner of Wilder Avenue and Pensacola Street, Kewalo, city and county of Honolulu, as set aside by Executive Order No. 590, dated June 21, 1933, signed by Governor L. M. Judd—one hundred dollars (\$100.00) per month.

3. **Aiea cemetery** situate on the northeast side of Kamehameha Highway opposite the intersection of said highway with Aiea depot road, Aiea, city and county of Honolulu, as set aside by Executive Order No. 1003, dated February 26, 1943, signed by Governor I. M. Stainback—twenty dollars (\$20.00) per month.

Section 2. The superintendent of public works is hereby directed to employ individuals on a part-time basis for each of the aforesaid cemeteries for the purpose of maintaining the same. Such employees shall not be subject to the civil service or classification laws of the Territory nor be eligible to membership in the employees' retirement system of the Territory of Hawaii nor shall they receive a bonus.

Section 3. The moneys appropriated shall be paid by the territorial treasurer upon warrants issued by the territorial auditor based upon vouchers approved by the superintendent of public works.

Section 4. This Act shall take effect upon its approval.

(Approved May 10, 1945.) S.B. 200, Act 128.

Series F-237: ACT 129

An Act Appropriating Twenty-five Thousand Dollars for the Repair, Rehabilitation and Improvement of Puukamalii Cemetery, Makiki Cemetery and Aiea Cemetery, City and County of Honoulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of twenty-five thousand dollars (\$25,000.00) for the repair, rehabilitation and improvement of **Puukamalii cemetery**, commonly known as Kalaepohaku cemetery, situate in McInerny Tract, Kapalama, city and county of Honolulu, as set aside by Executive Order No. 493, dated July 20, 1931, signed by Governor L. M. Judd; **Makiki cemetery** situate in the north corner of Wilder Avenue and Pensacola Street, Kewalo, city and county of Honolulu, set aside by Executive Order No. 590, dated June 21, 1933,

signed by Governor L. M. Judd, and Aiea cemetery situate on the northeast side of Kamehameha Highway opposite the intersection of said highway with Aiea depot road, Aiea, city and county of Honolulu, set aside by Executive Order No. 1003, dated February 26, 1943, signed by Governor I. M. Stainback. The repair, rehabilitation and improvement to the aforesaid cemeteries shall consist of removing brush, cutting and trimming trees and shrubs, constructing and improving walks, installation of necessary curbs, paving of roadways or walks, and the repair or building of fences and such other work as the superintendent of public works may deem necessary to place the aforesaid cemeteries in a good condition.

Section 2. Money appropriated shall be expended upon warrants drawn by the auditor of the Territory of Hawaii upon vouchers approved by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.

(Approved May 10, 1945.) S.B. 203, Act 129.

LIBRARIES.

Series F-238: ACT 72

An Act Appropriating the Sum of Five Hundred Sixty Thousand Dollars for Construction of Public Libraries.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general funds of the Territory of Hawaii, not otherwise appropriated, the sum of five hundred sixty thousand dollars for the construction of the following libraries in the amounts set apposite their respective names:

| | |
|---------------------------------|--------------|
| Waimea, Kauai | \$ 75,000.00 |
| Hilo, Hawaii | 300,000.00 |
| Waialua, Oahu* | 50,000.00 |
| Addition to Kaimuki, Oahu | 10,000.00 |
| Kalihi, Oahu | 125,000.00 |

* This item not approved—I.M.S.; but passed over the veto.

Section 2. The superintendent of public works is hereby directed to prepare plans and specifications for the construction of said libraries.

Section 3. The said amount of five hundred sixty thousand dollars, or so much as may be necessary, shall be disbursed on warrants of the territorial auditor based upon vouchers approved by the superintendent of public works, who shall construct said libraries by contract.

Section 4. This Act shall take effect upon its approval.

(Approved April 30, 1945, except as to the item reading "Waialua, Oahu, \$50,000.00", which is disapproved.) S.B. 10, Act 72.

This item became effective April 30, 1945, having been approved by the legislature over the veto of the Governor.

PORTRAITS.

Series F-239: ACT 204

An Act Appropriating the Sum of Five Thousand Dollars (\$5,000.00) for the Purchase of Oil Portraits by George Burroughs Torrey of Joseph B. Poindexter and Lawrence M. Judd, Former Governors of Hawaii, and the Sum of Two Thousand Dollars (\$2,000.00) for the Purchase of an Oil Portrait of Captain Henri Berger.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, the sum of five thousand dollars (\$5,000.00) for the purchase of oil portraits by George Burroughs Torrey of **Joseph B. Poindexter and Lawrence M. Judd**, former governors of Hawaii, and the sum of two thousand dollars (\$2,000.00) for the purchase of an oil portrait by Arthur W. Emerson of **Captain Henri Berger**.

Section 2. The sums so appropriated shall be expended upon warrants issued by the auditor upon vouchers approved by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.
(Approved May 17, 1945.) S.B. 374, Act 204.

UNIVERSITY LANDS.

Series F-240: ACT 168

An Act to Provide for the Acquisition of Additional Lands for the University of Hawaii and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general fund of the Territory the sum of seven hundred eighty-five thousand dollars (\$785,000.00), or so much thereof as may be necessary for new land for the University of Hawaii, said land to be so acquired being the following parcels owned as set forth hereinafter:

1. All that piece or parcel of land lying in and between Dole Street and the proposed Waialae Road extension and between University Avenue and the St. Louis Heights area, which premises are owned by the Trustees of the Estate of Bernice P. Bishop, Deceased; containing an area of approximately 90 acres, more particularly described by tax key 2-8-29 and being a portion of Parcel 1.

2. That certain piece or parcel of land lying mauka of that portion of the University of Hawaii grounds now devoted to agricultural purposes and owned by Mid-Pacific Institute, more particularly described by tax key 2-9-04 and being Parcels 4, 5 and the easterly portion of 3 and containing an area of approximately 22.00 acres.

3. That certain piece or parcel of land lying in the vicinity of the said Bishop Estate land referred to in number 1, being known as Ikeda's property and described by tax key 2-8-29 and being a portion of Parcel 4 and containing an area of approximately 0.72 acres.

4. Said piece or parcel of land lying in the vicinity of the land of the Bishop Estate land referred to above, known as the Vierra property and more particularly described by tax key 2-8-20 and being a portion of Parcel 4, and containing an area of approximately .114 acres.

Section 2. Any of said pieces or parcels of land, or portions thereof, may be acquired by purchase, condemnation or exchange, or by a combination of any of said methods, as may be found appropriate.

Section 3. Moneys appropriated by this Act shall be expended upon vouchers approved by the Regents of the University of Hawaii or their duly authorized subordinate.

Section 4. This Act shall take effect upon its approval.
(Approved May 15, 1945.) H.B. 59, Act 168.

UNIVERSITY BUILDING PLAN.

Series F-241: ACT 169

An Act to Approve a Plan Known as "The University of Hawaii Building Plan", and Requesting Preparation of Plans and Estimates Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. [Post-war "University of Hawaii Building Plan".] That the Legislature of the Territory of Hawaii hereby adopts and approves a plan for post-war construction of improvements known as "The University of Hawaii Building Plan", prepared by the University of Hawaii and submitted to the Post-War Planning Division of the Department of Public Works. The plan to which this section refers shall be divided into two parts and shall be described as follows:

Part A. Buildings and improvements required, listed in the order of priority of need as follows:

1. Three Men's Residence Halls
- 1a. Three Women's Residence Halls
2. Administration Building
3. Chemistry Laboratory Building
4. Home Management Building
5. Shop
6. Office Building for Agricultural Extension Service and Hawaii Agricultural Experiment Station
- 6a. Animal Industries Building
- 6b. Stock Judging Pavilion and Laboratory

Part B. Deferred improvements to be built upon completion of the foregoing projects:

7. Additional Men's Residence Halls
8. Additional Women's Residence Halls
9. President's House
10. Addition to Library
11. Aquarium
- 11a. Marine Laboratory Buildings
12. Auditorium
13. Dispensary
14. Engineering Building
15. Fine Arts and Music Building
16. Physical Science Building
17. Human Nutrition Building

18. Reserve Officer's Training Corps Buildings
19. Psychological Clinic
20. Barn—Haleakala, Maui
- 20a. Superintendent's Quarters—Haleakala, Maui
21. Necessary walks, roads, and utilities for the improvements named in this section.

Section 2. For the purpose of initiating said plan the Board of Regents is requested to prepare plans and estimates for the aforesaid projects, for presentation at the next session of the Legislature, the cost of such plans and estimates to be paid out of any University funds available therefor.

Section 3. This Act shall take effect upon its approval.
(Approved May 15, 1945.) H.B. 118, Act 169.

APPROPRIATIONS FOR COUNTIES.

Series F-242: ACT 277

AM. '49

SP. A.

An Act Making Appropriations for the Several Counties and the Territorial Highway Department and Designating the Purposes Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, for the specific purposes and in the amounts hereinafter scheduled, for the several counties, the amount of seven million dollars.

[The total of approved items is \$2,472,100.00.]

Section 2. The schedule of specific purposes and the amounts referred to in section 1 shall be as follows:

[Note: Items vetoed are enclosed in brackets.]

| | | |
|---|----------------|------------------------------|
| COUNTY OF HAWAII | | *[\$1,540,000.00] |
| * [The total of Items 1(b), 5, 33, 45, 47, approved, reduces this total to]..... | | \$ 531,800.00 |
| 1. Miscellaneous items as follows:..... | [\$385,500.00] | \$ 250,000.00] |
| [This total is approved for 1(b)..... | | \$ 250,000.00] |
| [(a) Territorial Highway Fund for expenditure in N. Kohala..... | | \$ 100,000.00] Vetoed—I.M.S. |
| (b) Improvement and expansion of Hilo Water System | | 250,000.00 Approved |
| [(c) Acquisition of Puu Alii Hill within Punahoa First and Second, South Hilo, Hawaii, by condemnation or otherwise in the public interest..... | | 25,000.00] Vetoed—I.M.S. |

HAWAII: Miscellaneous, continued:

| | | | | |
|--|--|--|-------------|---------------|
| [(d) Construction of curbs, sidewalks and widening of road along that portion of the makai side of Kālani-anaole Avenue, beginning at the southeast corner of Grant 9072 and running towards the lands of Honohononui, which does not abut upon or require work to be done on privately owned land..... | | | 10,500.00] | Vetoed—I.M.S. |
| [2. Acquisition of such rights as may be privately owned in land designated on the taxation maps of the third taxation division as Zone 2, Section 3, Plat 20, Parcel 1, area 40.107 acres, for use of Hilo High School, and for grading, landscaping, and roads..... | | | 200,000.00] | Vetoed—I.M.S. |
| [3. Acquisition of land by condemnation or otherwise for elementary grammar and high school at a site to be selected by the department of public instruction for the relocation of Laupahoehoe School also for grading, landscaping, roads leading to this land, and for moving any of present buildings from present site of school at Laupahoehoe to new site..... | | | 100,000.00] | Vetoed—I.M.S. |
| [4. Acquisition by purchase or condemnation of approximately 10.78 acres belonging to W. H. Shipman, Ltd., for use of the Olaa Elementary and Intermediate School and improvements..... | | | 10,000.00] | Vetoed—I.M.S. |
| 5. Acquisition of land, construction of hospital and purchase of equipment at Honokaa, Hawaii | | | 200,000.00 | Approved |
| [6. Construction of water system from 14½ Mi. Olaa to Keaau Village..... | | | 75,000.00] | Vetoed—I.M.S. |
| [7. Acquisition of 5 acres of land at Paauiilo for vocational purposes, grading, retaining wall, and moving idle buildings from Kaapahu School to new site.... | | | 5,000.00] | Vetoed—I.M.S. |
| [8. Acquisition of approximately five acres of land to be selected by Pahala Community Service Club for playground purposes; also for grading and landscaping same | | | 6,000.00] | Vetoed—I.M.S. |

APPROPRIATIONS FOR COUNTIES

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HAWAII, continued:

| | | |
|--|------------|---------------|
| [9. For widening, repairing and paving of Peck Road | 30,000.00] | Vetoed—I.M.S. |
| Construction, paving and repair (as the case may be) of the following roads, for any or all of the distance for which the appropriation will suffice: | | |
| [10. Between Kurtistown School—Lot 49 and Grant 5097—Lot 50, approximately 900 feet, construction of a homestead road.... | 2,200.00] | Vetoed—I.M.S. |
| [11. Between Grant 4368, 4397—Lots 2 and 3, and Grant 6668—Lot 83, approximately 1600 feet, construction of a homestead road | 3,000.00] | Vetoed—I.M.S. |
| [12. Volcano Road, between the Volcano Road and 15¼ Mi. Road Junction and Mt. View Post Office, approximately one mile, pavement of the shoulder on the northwest side for width of six feet | 5,000.00] | Vetoed—I.M.S. |
| [13. Between Grant Nos. 4890, 4429—Lots 45 and 46 and Grant Nos. 9541, 4900, 4306, 4362—Lots 49, 48 and 47, approximately 4,500 feet, construction of a homestead road..... | 9,000.00] | Vetoed—I.M.S. |
| [14. Between Grant Nos. 4220, 3980—Lots 93, 92, 91A and 91B and Grant Nos. 4027, 4358—Lots 88, 89, 90A and 90B, approximately 5,000 feet, construction of a homestead road..... | 10,000.00] | Vetoed—I.M.S. |
| [15. Haunani Road, approximately 2000 feet, additional construction | 5,000.00] | Vetoed—I.M.S. |
| [16. Kapoho Road, between Kapoho-Pohoiki Junction and Kapoho Post Office, approximately 4.4 miles, pavement with asphalt or surface similar to asphalt..... | 23,500.00] | Vetoed—I.M.S. |
| [17. Kaoe Road, between Kapoho-Kaoe Junction and Kaoe, approximately 1.5 miles, repair and surface..... | 3,000.00] | Vetoed—I.M.S. |
| [18. Pahoa Road between Keaau Village and Pahoa Village, widening by paving the shoulders with asphalt, and partial reconstruction by removal of bad bumps and curves | 17,000.00] | Vetoed—I.M.S. |
| [19. The steep grade of the Kamaili Road which branches from the Kalapana Road and passes through Grant Nos. 4372, 4239, 2215:1, 1023:3, approximately 3000 feet, repair and complete paving with asphalt..... | 6,000.00] | Vetoed—I.M.S. |

HAWAII, continued:

| | | |
|---|------------|---------------|
| [20. Kalapana Road between the end of present asphalt pavement through the Forest Reserve and the end of the Kalapana Road, approximately 6 miles, asphalt pavement | 20,000.00] | Vetoed—I.M.S. |
| [21. Kaiwiki Homesteads 1st Series South Hilo, Hawaii from Lot 17, parcel 27 towards Grant 3998 Tax Map Key 2-6-10 | 4,000.00] | Vetoed—I.M.S. |
| [22. Waiakea Homesteads, South Hilo, Hawaii from Lot 1210 towards Lot 1214..... | 5,000.00] | Vetoed—I.M.S. |
| [23. Piha-Kahuku Homesteads, North Hilo, from north corner of Grant 6692, parcel 15 towards present road at Grant 4782, Tax Map Key 3-2-02..... | 3,000.00] | Vetoed—I.M.S. |
| [24. Kaupakuea Homesteads, South Hilo, from southwest corner of Grant 6524 towards Grant 8624..... | 4,000.00] | Vetoed—I.M.S. |
| [25. Kulaimano Homesteads, South Hilo, from Grant 6940 towards Grant 7724..... | 4,000.00] | Vetoed—I.M.S. |
| [26. Papaaloa Homesteads, North Hilo, from Kaalau gulch towards Lot 48..... | 5,000.00] | Vetoed—I.M.S. |
| [27. Manowaiopae Homesteads, North Hilo, from Lot 79, Grant 9941 towards Lot 17 Laupahoe Homesteads..... | 5,000.00] | Vetoed—I.M.S. |
| [28. Kaapahu Homesteads, Hamakua, upper portion of road from Lot 11 towards Lot 18 | 4,000.00] | Vetoed—I.M.S. |
| [29. Kalopa Homesteads, Hamakua, from Lot 46, Grant 7964 towards Lot 48, Grant 9122 | 4,000.00] | Vetoed—I.M.S. |
| [30. Ahualoa Homesteads, Hamakua, Hawaii. Construction of road from Lot 1, Grant 5174 towards Lot 12, Grant 4923, 3rd series..... | 20,000.00] | Vetoed—I.M.S. |
| [31. Extension of Banyan Drive from Lot 20 running toward Pier 3, Ocean View Lease Lots, S. Hilo..... | 10,000.00] | Vetoed—I.M.S. |
| [32. Construction of road running approximately north toward the ocean, at Kaauihuhu Homesteads beginning at Hawi Village (North Kohala)..... | 5,000.00] | Vetoed—I.M.S. |
| 33. Wood Valley Homestead, Kau, Hawaii extending from Junction of roads at Grant 7610 running north and east towards Grant 7404..... | 5,000.00 | Approved |

APPROPRIATIONS FOR COUNTIES

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HAWAII, continued:

| | | |
|---|-------------|---------------|
| [34. Kokoiki Homestead, North Kohala, Hawaii, from the main country road along Ilikini Road and Park Road..... | 5,000.00] | Vetoed—I.M.S. |
| [35. From Haihai Road towards Lot 1099, Waiakea Homesteads, Hilo, Hawaii..... | 2,000.00] | Vetoed—I.M.S. |
| [36. Haihai Road from Kinoole St. towards junction of main Waiakea Homesteads Road at Lot 813..... | 10,000.00] | Vetoed—I.M.S. |
| [37. Purchase of additional land for Holualoa School grounds at Holualoa, Kona, Hawaii, moving and improvements of buildings and the construction of a new auditorium thereon..... | 11,500.00] | Vetoed—I.M.S. |
| [37a. Repairs to Courthouse, Kailua, Kona, Hawaii..... | 3,500.00] | Vetoed—I.M.S. |
| [38. Widening of roads in the Hawaiian Homes Tract at Keaukaha, South Hilo, Hawaii..... | 25,000.00] | Vetoed—I.M.S. |
| [39. Pahala High and Elementary School two teachers' cottages..... | 15,000.00] | Vetoed—I.M.S. |
| [40. For the water storage tanks at Kona-waena High and Elementary School, Kealakekua, South Kona, Hawaii..... | 20,000.00] | Vetoed—I.M.S. |
| [41. To survey the surface water resources of the areas above Holualoa, Kealakekua and Hookena and make recommendations and plans for the piping and storing of such water for use during drought periods..... | 25,000.00] | Vetoed—I.M.S. |
| [42. Grading Hualani Park and school grounds, Keaukaha..... | 20,000.00] | Vetoed—I.M.S. |
| [43. Upper Kaimu Homesteads, Puna, construction of road..... | 3,000.00] | Vetoed—I.M.S. |
| [44. Acquisition of land and buildings for branch libraries. | | |
| Pahala..... | 10,000.00 | |
| Naalehu..... | 10,000.00 | |
| Holualoa..... | 10,000.00 | |
| | 30,000.00] | Vetoed—I.M.S. |
| 45. Surveys, rights of ways, purchase of pipe and laying a water pipe line from Lindsey Tunnel in the land of Halawa to the concrete reservoir in the Kaauhuhu Homesteads and improvements to the Kokoiki water system, North Kohala, Hawaii..... | 50,000.00 | Approved |
| [46. Construction and/or repair of Kohala High and Elementary School..... | 100,000.00] | Vetoed—I.M.S. |
| 47. Improvements to Waimea Water System S. Kohala, Hawaii..... | 26,800.00 | Approved |

COUNTY OF MAUI.....*[\$1,050,000.00]

*[The total of Items 48, 49, approved,
reduces this total to]..... \$ 200,000.00

| | | |
|---|-------------|---------------|
| 48. Water Storage, Wailuku..... | 100,000.00 | Approved |
| 49. Water Storage, Kula..... | 100,000.00 | Approved |
| [50. Sewer System, Lahaina..... | 500,000.00] | Vetoed—I.M.S. |
| [51. General Fund, County of Maui (For improvements to be selected and designated by the board of supervisors.).. | 350,000.00] | Vetoed—I.M.S. |

CITY AND COUNTY OF HONOLULU.....*[\$3,640,000.00]

*[Only Item 52 approved; total reduced to]..... \$1,500,000.00

| | | |
|--|--------------|---------------|
| 52. General fund of the city and county of Honolulu | 1,500,000.00 | Approved |
| [53. Kaimuki High School, structures and other improvements to land..... | 425,000.00] | Vetoed—I.M.S. |
| [54. Sheridan Park, improvements to land..... | 25,000.00] | Vetoed—I.M.S. |
| [55. Pauoa Park, improvements to land..... | 25,000.00] | Vetoed—I.M.S. |
| [56. Artificial lighting for schools..... | 25,000.00] | Vetoed—I.M.S. |
| [For parks, playgrounds, and schools, for ac- quisition of land, grading, construction and other improvements to land, equip- ment, and lighting facilities (items 57 to 66, inclusive, which follow)] | | |
| [57. Fern Park | 10,000.00] | Vetoed—I.M.S. |
| [58. Kalakaua Playground | 20,000.00] | Vetoed—I.M.S. |
| [59. Hauula Park | 10,000.00] | Vetoed—I.M.S. |
| [60. Alewa Park | 5,000.00] | Vetoed—I.M.S. |
| [61. Nanakuli Park | 7,500.00] | Vetoed—I.M.S. |
| [62. Waianae Park (new) | 7,500.00] | Vetoed—I.M.S. |
| [63. Puunui Park | 10,000.00] | Vetoed—I.M.S. |
| [64. Kalihi-Kai Park | 10,000.00] | Vetoed—I.M.S. |
| [65. Puuhale School Playground | 10,000.00] | Vetoed—I.M.S. |
| [66. Nanakuli School addition | 30,000.00] | Vetoed—I.M.S. |
| [67. Hauula Courthouse, for construction, grading and other improvements to land | 22,500.00] | Vetoed—I.M.S. |
| [68. Kalihi Gymnasium and Community Cen- ter, for land, construction, grading and other improvements to land, and equipment | 85,000.00] | Vetoed—I.M.S. |
| [69. Wahiawa Elementary School, for land, construction, grading, and other im- provements to land..... | 100,000.00] | Vetoed—I.M.S. |
| [70. Leilehua School, for land, construction, grading, and other improvements to land | 142,500.00] | Vetoed—I.M.S. |
| [71. James B. Castle School, for plans and specifications | 30,000.00] | Vetoed—I.M.S. |

APPROPRIATIONS FOR COUNTIES

Sr. F-242

HONOLULU, continued:

| | | |
|---|--------------|---------------------------|
| [71a. Acquisition of land, extension University Avenue | 277,000.00] | Vetoed—I.M.S. |
| [71b. Parks and Playgrounds, for acquisition of land, grading, construction and equipment: | | |
| Waipahu | \$100,000.00 | |
| Kalihi-Uka | 50,000.00 | 150,000.00] Vetoed—I.M.S. |
| [71c. Acquisition of additional property for Police Station (land and structures thereon) | 100,000.00] | Vetoed—I.M.S. |
| [71d. School Buildings and Land, for Ala Moana, Kuliouou and Kapalama..... | 312,100.00] | Vetoed—I.M.S. |
| [71e. Fire Stations, for land, grading and construction | 300,900.00] | Vetoed—I.M.S. |

COUNTY OF KAUAI.....*[\$ 770,000.00]

| | | |
|--|-------------|---------------|
| *[The total of Items 73, 79, 81, 89, 91, 92, 93, approved, reduces this total to]..... | | \$ 240,300.00 |
| [72. General Fund, county of Kauai for improvements to be selected..... | 100,000.00] | Vetoed—I.M.S. |
| 73. Construction, Kapaa Canal Bridges..... | 65,000.00 | Approved |
| [74. Remodeling and Construction—Koloa School | 19,500.00] | Vetoed—I.M.S. |
| [75. Construction Eleele School Four-Classroom Bldg. Unit..... | 15,600.00] | Vetoed—I.M.S. |
| [76. Construction of toilet rooms in main bldg.—Eleele School | 5,200.00] | Vetoed—I.M.S. |
| [77. Construction Kauai High School Four-Classroom Bldg. Unit..... | 19,600.00] | Vetoed—I.M.S. |
| [78. Construction Library and Office Bldg. Kauai High School..... | 19,500.00] | Vetoed—I.M.S. |
| 79. Construction of Bldg. to house Police Station and Branch Library—Hanapepe, Kauai | 29,000.00 | Approved |
| [80. Construction Storage Tank for Hanapepe Water Works..... | 30,000.00] | Vetoed—I.M.S. |
| 81. Construction Kauai Police and Court-house Building | 75,000.00 | Approved |
| [82. Construction Courthouse and Jail at Kapaa | 20,000.00] | Vetoed—I.M.S. |
| [83. Construction Courthouse and Jail at Waimea | 20,000.00] | Vetoed—I.M.S. |
| [84. Construction Courthouse and Jail at Koloa | 15,000.00] | Vetoed—I.M.S. |
| [85. Construction Courthouse and Jail at Hanalei | 15,000.00] | Vetoed—I.M.S. |
| [86. Construction Gymnasium Building Waimea High School..... | 58,500.00] | Vetoed—I.M.S. |

KAUAI, Continued:

| | | |
|--|------------|---------------|
| [87. Construction Kapaa School Gymnasium Building | 58,500.00] | Vetoed—I.M.S. |
| [88. Construction Hanalei Bridges (Waipa, Waikoko, Waioli) | 45,000.00] | Vetoed—I.M.S. |
| 89. Development Omao Water System Intake.... | 20,000.00 | Approved |
| [90. Widening and Construction of Bridge at Anahola | 15,000.00] | Vetoed—I.M.S. |
| 91. Construction of Kapaia Suspension Bridge.. | 6,300.00 | Approved |
| 92. Construction of New Pipe Line from Waimea to Kekaha..... | 25,000.00 | Approved |
| 93. Construction of two Concrete Storage Plants at Waimea..... | 20,000.00 | Approved |
| [94. Construction of Kapaa School Classrooms and Homemaking Rooms..... | 27,300.00] | Vetoed—I.M.S. |
| [95. Construction of bridges—Wailua House-lots, Second Series—Kauai..... | 46,000.00] | Vetoed—I.M.S. |

Section 3. The appropriations for items 1(a) and 73 shall be expended upon warrants issued by the territorial auditor upon vouchers approved by the territorial highway engineer.

Section 4.* The appropriation herein made for the city and county of Honolulu shall be deemed to be an appropriation of the total sum of [three million six hundred forty thousand dollars (\$3,640,000)]* for expenditure by the city and county whether or not any of the specific items set forth in paragraph Nos. 52 to 71e, inclusive, of section 2 of this Act shall fail to be approved, and the said appropriation, or so much thereof as may be necessary, shall be deemed to be made and may be expended for the operation of the government of the city and county during the biennium 1945-1947 to the extent of sums equal to the revenues which would have been received by the city and county had Senate Bill No. 277 [Act 82, A-87] of the present session not been enacted, and any remaining balance of said total appropriation shall be expended for the purposes specified in said paragraphs 52 to 71e, inclusive, or such of them as have not been vetoed, to the extent of the availability of such remaining balances. The said appropriation for the city and county shall be paid into the treasury of the city and county as required for the purposes herein set forth, upon request by resolution of the board of supervisors of said city and county, for expenditure under the direction of the said board and shall not be otherwise expended except as stated in section 6.*

* Vetoed as stated at the end of the bill.—I.M.S.

Section 5. The appropriations made by the remaining items of this Act shall be paid into the county treasuries of the respective counties when and as required for expenditure, such funds

to be held in the territorial treasury until payment thereof into the county treasury is requested, by resolution of the appropriate board of supervisors, for a specific item or items. All such funds shall be held in the county treasury for the purposes stated in this Act, for expenditure by or under the direction of the board of supervisors, and shall not be otherwise expended except as stated in sections 6 and 7.

[The grand total of approved items is \$2,472,100.00.]

Section 6. Any balance of moneys, made available for any of the several counties except the county of Hawaii hereunder, not expended during the year 1945 shall be carried forward and expended during any subsequent year, any other provision of the law to the contrary notwithstanding, and, in case the amount specified for any item hereinabove designated shall not be wholly required to complete such item, the unrequired balance shall, after completion of said item, be transferred to the general fund of the county for which the money for said item has herein been appropriated.

Section 7. Any balance of the moneys made available for the county of Hawaii hereunder, not expended or committed by contract prior to June 30, 1947, shall be deemed appropriated as to fifty per cent thereof for the county water systems fund for expenditure in the county of Hawaii, and twenty-five per cent thereof for the purchase of equipment and as to the remaining twenty-five per cent thereof to be turned into the general fund of the said county of Hawaii.

Section 8. This Act shall take effect upon its approval.

(Approved May 24, 1945.) S.B. 63, Act 277, except as to the following items:

Items 1 (a), 1 (c), 1 (d), 2-4 inclusive, 6-32 inclusive, 34-44 inclusive, 46, 50, 51, 53-71 (e) inclusive, 72, 74-78 inclusive, 80, 82-88 inclusive, 90, 94, and 95 of section 2 are hereby vetoed and not approved.

The additional appropriation made by section 4 for the operation of the government of the City and County of Honolulu during the biennium 1945-1947 is hereby vetoed and not approved; this disapproval shall not be deemed to relate to item 52 of section 2, which is hereby approved.—I.M.S.

Series F-243: ACT 28

An Act Appropriating One Hundred Thousand Dollars for the Repair and Reconstruction of the Hawaii Belt Road Damaged by Storms.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of one hundred thousand dollars (\$100,000.00), or so much thereof as may be necessary, for the repair and reconstruction to the highway and bridges on the **Hawaii Belt Road, Kapapala section and Pahala section**, including engineering, inspection, and other related costs, which were recently damaged by severe storms.

Section 2. The foregoing appropriation shall be expended in conjunction with Federal Aid funds provided by the Federal Aid Highway Act as amended, or any other Acts or rules and regulations pertaining thereto. The money appropriated shall be expended upon warrants drawn by the auditor of the Territory of Hawaii upon vouchers approved by the superintendent of public works.

Section 3. Any funds remaining upon the completion of the aforesaid work shall revert to the general fund of the Territory.

Section 4. This Act shall take effect upon its approval.
(Approved April 23, 1945.) S.B. 367, Act 28.

Series F-244: ACT 213

An Act Making an Appropriation by Way of Advancement from the General Fund of the Territory to be Repaid Out of the Proceeds of Sale of Public Lands in the County of Kauai for the Construction of Roads to and Within the Hanapepe Heights House Lots Tract and of a Domestic Water System Within Said House Lots Tract.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of \$150,000.00, or so much thereof as may be necessary, is hereby appropriated by way of advancement out of the territorial general fund to be reimbursed from

the proceeds of sales of public lands in the county of Kauai for the construction of roads to and within the **Hanapepe Heights House Lots Tract** and of a domestic water system within said house lots tract.

Such funds shall be disbursed on warrants of the territorial auditor based upon voucher approved by the commissioner of public lands, who is to contract said projects by contract or contracts with or through the county of Kauai.

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1945.) **S.B. 201, Act 213.**

Series F-245: ACT 232

An Act Appropriating Twenty-Five Thousand Dollars for the Hawaiian Homes Commission for the Survey of Lots and Roads at Waimea, Hawaii, and Anahola, Kauai, and the Making of Estimates and Report, and Providing for the Withdrawal of Said Lands from Lease.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of twenty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, to survey lots and roads in available lands, now under lease, at **Waimea, Hawaii**, and at **Anahola, Kauai**, and to make the estimates and report hereinafter required.

Section 2. The sum hereinabove appropriated or so much thereof as may be necessary, shall be expended upon vouchers approved by the Hawaiian Homes Commission who shall make a survey of lots suitable for lease within such lands under the Hawaiian Homes Commission Act 1920, as amended, and of roadways leading to and serving said lots, with estimates of cost of installing water mains and the service of such other public utilities as such commission may determine to be reasonably feasible.

Section 3. Said commission shall make a full report of its surveys and findings to the 1947 session of the legislature of the Territory of Hawaii, outlining the program which it proposes to follow, and presenting any legislative measures it deems nec-

essary to carry out the purposes of this Act. Said report shall include, inter alia:

1. The survey of lots.
2. The survey of proposed roads.
3. The survey of proposed water mains.
4. The number of prospective applicants.
5. The method of furnishing public utility service.
6. The estimated cost of each of the items covered by the survey in numbers 2, 3, and 5 of this schedule.

No lot provided to be surveyed by section 2 of this Act shall be in excess of ten acres.

Section 4. This Act shall take effect upon its approval.

(Approved May 19, 1945.) S.B. 273, Act 232.

Series F-246: ACT 58

An Act Appropriating Ten Thousand Dollars
for the Survey of a Road Into Waipio Valley, Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated from the general funds of the Territory, not otherwise appropriated, for a survey of a road into **Waipio Valley, Hawaii.**

Section 2. The superintendent of public works is hereby authorized and directed to make said survey, and said sum shall be expended upon warrants issued by the territorial auditor upon vouchers approved by said superintendent of public works.

Section 3. This Act shall take effect upon its approval.

(Approved April 28, 1945.) S.B. 250, Act 58.

Series F-247: ACT 154

An Act Making an Appropriation of \$15,000 to Set Up a Revolving Fund to be Used and Expended By, or Under the Direction of, the President of the Board of Health for Rodent Control.

Be it Enacted by the Legislature of the Territory of Hawaii:

[RODENT CONTROL]

Section 1. The sum of fifteen thousand dollars is hereby appropriated out of the moneys in the treasury received from general revenues as a revolving fund to be expended by the president of the board of health or under his direction for the purchase of rat proofing materials and supplies, such as sheet metal, wire cloth, nails, fine wire, traps, poison, gas, and tools, which shall be sold by him or under his direction at cost to persons requiring them in order to make their premises rat proof or to prevent rats from going into or out of their premises. All moneys received from the sale of such materials shall be paid into the fund and shall by him or under his direction be used for the purchase of other such materials which shall be sold as herein provided.

Section 2. This Act shall be effective upon its approval.
(Approved May 14, 1945.) H.B. 514, Act 154.

Series F-248: ACT 207

An Act Creating a Revolving Fund of \$750,000.00 for the Purchase of Surplus Property from the United States Government.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of \$750,000.00 is hereby appropriated out of the general fund of the Territory and placed in a special fund to be known as the "Revolving Fund for the Purchase of Surplus Property from the Federal Government."

Section 2. Monies from the revolving fund shall be expended by the treasurer of the Territory, the auditor of the Territory, the budget officer of the Territory, and the superintendent of public works, acting jointly, for the purchase of such surplus property offered for sale by the government of the United States which is useful in territorial and county government projects and other works and in their offices, and shall be made

available at cost to the several counties and departments of the Territory.

Section 3. All monies received from the counties and territorial departments for such property shall be placed to the credit of said revolving fund and shall be available for expenditure in the same manner as the original appropriation.

Section 4. This Act shall take effect on its approval.

(Approved May 17, 1945.) H.B. 164, Act 207.

Series F-249: ACT 276

An Act Appropriating the Sum of Two Hundred Thousand Dollars (\$200,000.00) to Augment the Existing Appropriation Made by Act 199 of the Session Laws of Hawaii 1941, for the Construction and Equipment of a Treatment Unit at the Territorial Hospital for the Mentally Ill at Kaneohe, Oahu, and Appropriating One Million Five Hundred Thousand Dollars (\$1,500,000.00) for New Construction, Repairs and Equipment for Leahi Home.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the Territory of Hawaii, the sum of two hundred thousand dollars (\$200,000.00), in addition to the sum appropriated by the provisions of Act 199 [E-266] of the Session Laws of Hawaii 1941, for the construction and equipment of a treatment unit at the territorial hospital for the mentally ill at Kaneohe, Oahu.

Section 2. The director of institutions is hereby directed to make any necessary modifications in the plans and specifications heretofore prepared for the construction of said unit.

Section 3. The said amount of two hundred thousand dollars (\$200,000.00), or so much thereof as may be necessary, shall be disbursed on warrants of the territorial auditor based upon vouchers approved by the director of institutions who shall construct said unit by contract.

Section 4. There is hereby also appropriated from said general fund the sum of one million five hundred thousand dollars (\$1,500,000.00) for the construction of additional buildings, and the repair of present buildings, of Leahi Home, Honolulu, and equipment for the same, provided, however, that this appropria-

tion is made upon the express condition, which shall be deemed to have been accepted by the trustees of Leahi Home if they accept any of the benefits of said appropriation, that in case the Territory or the city and county should desire to acquire any of the Leahi Home premises, any amount of money expended from said appropriation for permanent improvements shall constitute a credit against the purchase price or the amount otherwise required to acquire said premises.

Section 5. This Act shall take effect upon its approval.

(Approved May 24, 1945.) S.B. 263, Act 276.

Series F-250: ACT 50

An Act Appropriating Eight Thousand Dollars for Expenditure During the Years 1945 and 1946 by the Kamehameha Day Celebration Commission.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory the sum of eight thousand dollars, which is hereby allotted to cover expenses of **Kamehameha Day** celebrations, said allotments to be made in the following manner:

| | |
|---------------------------------|-------------------|
| (1) For Oahu | \$4,000.00 |
| (2) For Hawaii | 1,300.00 |
| (3) For Maui | 1,150.00 |
| (4) For Molokai and Lanai | 400.00 |
| (5) For Kauai | 1,150.00 |
| Total..... | <u>\$8,000.00</u> |

Section 2. The amount herein appropriated and allotted in the above manner shall cover all expenditures of **Kamehameha Day** celebrations of **June 11, 1945 and 1946**, by the Kamehameha Day Celebration Commission in the manner and under the provisions established by section 1 of Act 227 of the Session Laws of Hawaii 1939.

Section 3. This Act shall take effect upon its approval.

(Approved April 28, 1945.) S.B. 139, Act 50.

Series F-251: ACT 170

An Act Providing for the Care of Juvenile Delinquents and for Such Purpose Making an Appropriation for Any or All of the Following: Acquisition of Land for Additional Facilities, Improvements to Land, Equipment, Operation, and Maintenance.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. If the governor shall not approve the site of the present **Waialea Training School for Boys**, or other government land, as suitable for additional facilities for the care of delinquent boys, the commissioner of public lands is hereby authorized and directed to acquire by purchase or condemnation, at a location approved by the governor, suitable land for such additional facilities.

Section 2. The sum of two hundred forty-six thousand eight hundred sixty-eight dollars (\$246,868) is hereby appropriated from the general revenues of the Territory not otherwise appropriated for the acquisition of such land, if suitable government land is not available (including costs of surveys and other expenses in connection with such land acquisition), and for any or all of the following purposes: the preparation of plans and specifications, the construction of buildings and the making of other improvements to land, equipment, and necessary expenditures for operation and maintenance, all of which shall be for the care of delinquent boys by the department of institutions. The director of institutions is hereby authorized to prepare such plans and specifications by contracting, with or without advertising for sealed tenders, for the preparation thereof. Such buildings and other improvements to land may be made or constructed by contracting therefor, or by the use of prison labor, or by the use of territorial employees, materials and equipment, or by any combination of the foregoing.

Section 3. The said appropriation of two hundred forty-six thousand eight hundred sixty-eight dollars (\$246,868) shall be allotted by the director of the bureau of the budget, with the approval of the governor, for (a) the acquisition of such land, if suitable government land is not available, such expenditures to be made upon vouchers approved by the commissioner of public lands, and (b) for the other purposes of this Act, such expenditures to be made on vouchers approved by the director of institutions. Funds so allotted, if not encumbered, may be reallocated from time to time.

Section 4. This Act shall take effect upon its approval.
(Approved May 15, 1945.) H.B. 469, Act 170.

Series F-252: ACT 51

An Act to Amend Act 191 of the Session Laws of Hawaii 1943, by Amending the Appropriation for the Department of the Secretary of Hawaii for Publication of the Session Laws of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 191 of the Session Laws of Hawaii 1943 is hereby amended by amending the fourth subparagraph under the paragraph heading "Department of Secretary of Hawaii", being the last paragraph on page 279 of the published volume of said session laws, to read as follows:

| | |
|--|-------------|
| "Publication Session Laws of Hawaii..... | \$31,000.00 |
| A. Personal Services | \$ 6,000.00 |
| B. Other Current Expenses | 25,000.00". |

Section 2. The increase of appropriation effected by this Act shall be immediately available for expenditure by the secretary of Hawaii as though existing in the original Act and, any other provision of law to the contrary notwithstanding, shall, together with the sums originally appropriated by said Act, continue to be available for expenditure until completion of the promulgation and printing of the laws enacted by the Twenty-Third Legislature by the secretary of Hawaii pursuant to the provisions of section 2 of the Revised Laws of Hawaii 1945.

Section 3. This Act shall take effect upon its approval.
(Approved April 28, 1945.) S.B. 219, Act 51.

Series F-253: ACT 44

An Act Relating to the Five Hundred Dollar Shortage Existing for Many Years in the Territorial Treasury.

WHEREAS, a five-hundred dollar (\$500.00) shortage has existed in the territorial treasury since the year 1940; and

WHEREAS, the Territory has been unsuccessful in judicial proceedings to fix the responsibility for the said shortage, and has no further legal recourse in the matter; now therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The auditor and the treasurer are hereby authorized to cancel the said shortage and adjust their records accordingly. The sum of five hundred dollars (\$500.00) is appropriated for this purpose.

Section 2. This Act shall take effect upon approval.

(Approved April 26, 1945.) S.B. 341, Act 44.

Series F-254: ACT 2

An Act to Appropriate Money for the Expenses
of the Senate of the Territory of Hawaii for the Periods
Herein Specified.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the Territory the sum of one hundred ten thousand dollars (\$110,000.00), or so much thereof as is necessary, for the purpose of defraying the expenses of the Senate of the Twenty-Third Legislature of the Territory of Hawaii for the period commencing February 21, 1945, and ending November 4, 1946.

Section 2. Should there remain any balance of the aforesaid sum of one hundred ten thousand dollars (\$110,000.00) unexpended and not contracted for expenditure at the expiration of the aforesaid period, either by said Senate or any holdover committee or committees thereof duly authorized by said Senate to act after the close of the regular session of 1945, such balance is hereby appropriated for the purpose of defraying the expenses of any such holdover committee or committees.

Section 3. Each section of this Act is hereby declared to be severable from the remainder of said Act.

Section 4. This Act shall take effect upon its approval

(Approved March 1, 1945.) S.B. 1, Act 2.

Series F-255: ACT 3

An Act to Appropriate Money for the Expenses
of the House of Representatives of the Territory of
Hawaii for the Periods Herein Specified.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the public treasury the sum of one hundred thirty-five thousand dollars (\$135,000.00) or so much thereof as may be necessary for the purpose of defraying the expenses of the House of Representatives of the Twenty-third Legislature of the Territory of Hawaii for the period commencing February 21, 1945 and ending November 5, 1946.

Section 2. Should there remain any balance of the aforesaid sum of one hundred thirty-five thousand dollars (\$135,000.00) unexpended and not contracted for expenditure at the expiration of the aforesaid period either by said House of Representatives or any holdover committee or committees thereof duly authorized by said House of Representatives to act after the close of the Regular Session of 1945, such balance is hereby appropriated for the purpose of defraying the expenses of any such holdover committee or committees incurred after such period.

Section 3. Each section of this Act is hereby declared to be severable from the remainder of said Act.

Section 4. This Act shall take effect upon its approval.

(Approved March 1, 1945.) H.B. 3, Act 3.

2. RELIEF AND CLAIMS.

Series F-256: ACT 246

An Act for the Relief of Certain Persons, Firms and Corporations on Account of Overpayment of Taxes and Other Claims Against the Territory, and Providing Appropriations Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The following respective sums of money are hereby appropriated out of the general revenues of the Territory of Hawaii for the purpose of reimbursing the following named persons, firms and corporations, for overpayment of taxes or for taxes illegally collected, or on account of other claims against the Territory, in the amounts set apposite their respective names:

| | |
|--|-----------|
| Hawaiian Petroleum Co. | |
| Furnishing grease and oil to Kalaupapa Settlement..... | \$ 246.22 |
| R. W. Meyer, Ltd. | |
| Rental of land on Molokai situated at top of pali overlooking Kalaupapa Settlement..... | 120.00 |
| Imperial Paint Shop | |
| Material and labor for paint job in Judiciary Building..... | 997.70 |
| Hiltz Laboratories, Ltd. | |
| Quarterly inspection service of Hilo Armory for termites..... | 41.25 |
| Theo. H. Davies Co., Ltd. | |
| Repairs to private automobile involved in accident with a T. H. station wagon operated by Territorial Hospital..... | 266.91 |
| Mrs. Edith L. Louis (School Teacher) | |
| Denial of request for cumulative sick leave by Department of Public Instruction..... | 368.40 |
| Mr. Lawrence S. Nosse (School Teacher) | |
| Failure on part of Department of Public Instruction to change salary after transfer from one school to another..... | 72.00 |
| Mr. Wing Kong Chong (School Teacher) | |
| Failure on part of Department of Public Instruction to change salary after transfer from one school to another..... | 50.00 |
| Mr. David You Mar (School Teacher) | |
| Failure on part of Department of Public Instruction to change salary after transfer from one school to another..... | 72.00 |
| Mr. Kenneth K. Murakami (School Teacher) | |
| Failure on part of Department of Public Instruction to change salary after transfer from one school to another..... | 100.00 |
| Estate of Bernice P. Bishop, deceased | |
| On account of loss sustained by reason of the occupancy of portion of Grant 9827 by George and John Kalua and others, to be paid upon execution of a satisfactory release..... | 1,497.35 |

RELIEF AND CLAIMS

Sr. F-256

| | |
|--|------------|
| [Estate of Antonio Perry | |
| Costs of court on appeal case to Supreme Court.....* | 25.00] |
| * This item not approved.—I.M.S. | |
| [H. W. Kinney | |
| Furnishing materials and supplies for construction of Wai- | |
| mea Canyon Road July, 1928.....* | 15,000.00] |
| * This item not approved.—I.M.S. | |
| Government Printing Office | |
| Printing of Federal income tax forms to be used by Terri- | |
| torial Tax Commissioner..... | 66.06 |
| [Howard Belch | |
| Refund of real property taxes.....* | 38.26] |
| * This item not approved.—I.M.S. | |
| Hobron Land Trust | |
| Refund of real property taxes..... | 1,136.38 |
| L. L. McCandless Estate | |
| Refund of real property taxes..... | 54.84 |
| L. L. McCandless Estate | |
| Refund of real property taxes..... | 62.20 |
| George Utley | |
| Refund of real property taxes..... | 72.41 |
| Hanichi Nakano | |
| Poll taxes | 5.00 |
| Mrs. Emma Kalaluhi | |
| Poll taxes | 5.00 |
| Paul T. Yamamura | |
| Poll taxes | 5.58 |
| F. E. Langa | |
| Income taxes | 40.00 |
| Mrs. Lottie M. Willard | |
| Real property taxes..... | 7.22 |
| Mutual Telephone Co. | |
| Telephone service rendered office of High Sheriff..... | 18.46 |
| Hawaiian Printing Co., Ltd. | |
| Five sectional post binders sold to the Territorial Land | |
| Office | 83.75 |
| William K. Buchanan | |
| Territorial income taxes..... | 122.79 |
| Aloysius Spenser | |
| Territorial income taxes..... | 16.00 |
| Mrs. Christina Nahale | |
| Real property taxes..... | 31.55 |
| Gilbert K. Pacheco | |
| Real property taxes..... | 11.35 |
| [I. Kitagawa & Co., Ltd. | |
| Real property taxes.....* | 380.49] |
| * This item not approved.—I.M.S. | |
| Edward S. C. Mau | |
| For salary increase earned but not paid..... | 12.50 |
| Au Ho | |
| Real property taxes..... | 27.33 |

| | |
|--|-----------|
| Standard Oil Co. | |
| Refund of fuel tax..... | 12,981.36 |
| Standard Oil Co. | |
| Refund of fuel tax..... | 1,493.60 |
| Angeline Iseke | |
| Real property tax..... | 113.42 |
| [Olaa Sugar Co. | |
| Real property tax..... | * 316.11] |
| * This item not approved.—I.M.S. | |
| Jacob Kahele | |
| Real property tax..... | 29.18 |
| [Waimea Japanese Association and | |
| Hanapepe Japanese School Association | |
| Refund of real property taxes..... | * 766.69] |
| * This item not approved.—I.M.S. | |
| Ethel H. Nelson | |
| Advances to Commissioner of Public Lands—Rents, etc..... | 73.36 |
| Nawai Kekoolani | |
| Salary as inspector of elections..... | 10.00 |
| Juliette Thompson | |
| Salary as inspector of elections..... | 40.00 |
| Barbara Chock | |
| Salary as inspector of elections..... | 10.00 |
| Standard Oil Co. of California | |
| Supplies furnished to County of Hawaii..... | 138.69 |

Section 2. The sums hereinabove appropriated shall be paid upon warrants issued by the territorial auditor upon vouchers approved by the tax commissioner in the several amounts and to the respective persons hereinabove set out, as to said claims for taxes, and shall be paid upon warrants issued by said auditor upon vouchers approved by the director of the bureau of the budget as to all other claims.

Section 3. Any amounts so paid which shall represent property taxes overpaid or illegally collected shall constitute an advancement to the county in which such taxes have been collected, and shall be repaid by the treasurer of the Territory into the general fund of the Territory by retaining the amount from the next collection of such taxes on account of such county and paying the same into said general fund.

Section 4. This Act shall take effect upon its approval.

(Approved May 19, 1945.) H.B. 429, Act 246, except as to those items followed by the words "This item not approved" and titled: "Estate of Antonio Perry", "H. W. Kinney", "Howard Belch", "I. Kitagawa & Co., Ltd.", "Olaa Sugar Co." and "Waimea Japanese Association and Hanapepe Japanese School Association".—I.M.S.

Series F-257: ACT 256

An Act Making Appropriations for the Relief
of Peter L. Smith and James C. Carter.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the Territory of Hawaii the sum of one hundred forty-three and 72/100 dollars (\$143.72) for the relief of **Peter L. Smith**, for the compensation earned, as a guard of the territorial prison.

Section 2. The money hereby appropriated shall be paid by the treasurer of the Territory of Hawaii, upon a warrant issued by the auditor of the Territory of Hawaii, to Peter L. Smith.

Section 3. There is hereby appropriated from the territorial general fund the sum of two hundred ninety-five and 23/100 dollars (\$295.23), the same to be paid to **James C. Carter** for compensation earned, as a second lieutenant in the Hawaii National Guard and custodian of the Hilo Armory, Hilo, Hawaii, from July 1 to August 13, 1943, both dates inclusive.

Section 4. This Act shall take effect upon its approval.

(Approved May 21, 1945.) **S.B. 171, Act 256**, except as to the appropriation made by section 3 of the foregoing bill, which is hereby disapproved.
—I.M.S.

Series F-258: ACT 235

An Act Appropriating Two Thousand Seventy-Three and 68/100 Dollars from the Territorial General Fund for the Relief of the Roman Catholic Church in the Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That there is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, the sum of two thousand seventy-three and 68/100 dollars, for the relief of the **Roman Catholic Church** in the Territory of Hawaii, by way of refund of all payments made by the Roman Catholic Church in the Territory of Hawaii on the purchase price and interest up to March 14, 1945, paid to the Office of the Commissioner of Public Lands on account of Special Sale Agreement No. 2193 for the purchase of land at Hilo as a new site for the St. Mary's and St. Joseph's Schools, which land has been found to be unsuitable for the purposes for which it was purchased.

Section 2. The sum hereby appropriated shall be paid upon vouchers approved by the Commissioner of Public Lands after the surrender to him by the Roman Catholic Church in the Territory of Hawaii of all of its interest in Special Sale Agreement No. 2193, which surrender and cancellation of such agreement is hereby approved.

Section 3. This Act shall take effect upon its approval.
(Approved May 19, 1945.) S.B. 322, Act 235.

Series F-259: ACT 77

An Act for the Relief of Joaquin Pestana.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, the sum of four hundred sixty-six dollars and forty cents for the relief of **Joaquin Pestana**, to repay him for rentals paid for a government leasehold of lands to which there was no easement or other right of entry.

Section 2. The land commissioner of the Territory of Hawaii is hereby authorized and directed to cancel government leasehold number 3041 and to secure the consent in writing of said Joaquin Pestana to such cancellation.

Section 3. The sum herein appropriated shall be paid by the territorial treasurer to Joaquin Pestana upon warrant which shall be issued by the territorial auditor upon the signing by said Joaquin Pestana of a written consent to the cancellation of government leasehold number 3041 and a complete release of all claims against the Territory.

Section 4. This Act shall take effect upon its approval.
(Approved May 2, 1945.) S.B. 166, Act 77.

Series F-260: ACT 45

An Act for the Relief of Eddie F. Vieira, Sr.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, the sum of eight hundred dollars (\$800.00) for reimbursement of Eddie F. Vieira, Sr., for investments made upon Lot 46, Keaukaha, Hilo, Hawaii.

Section 2. The territorial treasurer is hereby authorized and directed to issue a warrant for the money hereinabove appropriated to said Eddie F. Vieira, Sr., upon his executing a release of all claims against the Territory of Hawaii or the Hawaiian Homes Commission.

Section 3. This Act shall take effect upon its approval.

(Became effective April 25, 1945, having been approved by the legislature over the veto of the Governor.) S.B. 56, Act 45.

3. DIRECTIONS TO COUNTIES.

Series F-261: ACT 239

An Act Authorizing and Directing the Board of Supervisors of the County of Hawaii to Pay Five Hundred Twenty Dollars to Hideo Kawahara.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Hawaii is hereby authorized and directed to pay to Hideo Kawahara the sum of five hundred twenty dollars for use of his car for the benefit of the county under oral agreement with officers of the county.

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1945.) S.B. 354, Act 239.

Series F-262: ACT 260

An Act Relating to the Reimbursement of Walker-Moody Construction Company, Limited, of the Amount of Excess Costs Incurred in Constructing Beach Walk Station Sewer Pressure Line Under War Time Conditions, Authorizing and Directing the Board of Supervisors of the City and County of Honolulu to Appropriate Sufficient Moneys Therefor and Authorizing the Board of Supervisors of the City and County of Honolulu to Appropriate Such Sums as May Be Required to Reimburse Similar Excess Costs of Construction on Other Public Projects.

WHEREAS, the city and county of Honolulu in the year 1941, prior to the outbreak of war, entered into a contract with Walker-Moody Construction Company, Limited, for the construction of a sewer pressure line, Beach Walk Station, Waikiki, Honolulu, for the contract price of \$71,404.65; and

WHEREAS, conditions prevailing in the Territory after the outbreak of war prevented the commencement of construction under said contract until the year 1943, at which time by virtue of military and governmental orders and regulations the rates of pay of labor had substantially increased over those prevailing upon the date of said contract and by virtue of increased cost of manufacture and transportation the costs of materials had substantially increased over those prevailing upon the date of said contract; and

WHEREAS, by reason of said war time increases in the costs of labor and materials, said contract was completed by Walker-Moody Construction Company, Limited, at a cost of \$11,933.36 in excess of the cost originally estimated and upon which the contract price was based, and a moral obligation exists to reimburse said Walker-Moody Construction Company, Limited, in the amount of the excess of said costs over those originally estimated; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Board of Supervisors of the city and county of **Honolulu** is hereby authorized and directed to appropriate and cause to be paid to **Walker-Moody Construction Company, Limited**, out of the general fund of said city and county, the sum of \$11,933.36 as reimbursement of the excess costs of construction by said company under war time conditions of the Beach Walk Station Sewer Pressure Line.

Section 2. [General authority to grant relief for excess costs.] The board of supervisors of the city and county of Honolulu is hereby authorized to appropriate out of the general fund of said city and county, such sums as may be required to cover excess costs of construction on public works arising out of and due to war time conditions and similar to those authorized and directed to be paid under section 1, above.

Section 3. This Act shall take effect upon its approval.
(Approved May 22, 1945.) S.B. 181, Act 260.

Series F-263: ACT 146

An Act to Waive the Statute of Limitations
Relative to the Claim of Annie K. Harris, and Author-
izing Suit Thereon.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Any claim of Annie K. Harris for and on account of loss and damage sustained by her to her taro lands situated in upper Manoa Valley, known as "Keauawana", by reason of the diversion of water by the government of the Territory of Hawaii and/or any subdivision thereof from the waterhead known as "Waiakekua" in Manoa Valley, City and County of Honolulu, Territory of Hawaii, or by reason of any improvements made by the Territory of Hawaii or any of its subdivisions in upper Manoa Valley, shall not be affected by any existing statute of limitation, and action may be maintained thereon, and judgment recovered against the Territory of Hawaii and/or any of its subdivisions, and suit on such claim is hereby expressly authorized; **provided**, however, that nothing herein contained shall authorize the commencement of any such action or suit at any time after the expiration of two years from the effective date of this Act.

Section 2. This Act shall take effect upon its approval.
(Approved May 12, 1945.) H.B. 221, Act 146.

Series F-264: ACT 18

An Act Making an Appropriation for the Relief of Llewellyn H. L. Hart.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Anything in any other law to the contrary notwithstanding, the board of supervisors of the city and county of Honolulu is hereby authorized and directed to make an appropriation in the sum of three thousand three hundred dollars (\$3,300.00) being claim for salary due Llewellyn H. L. Hart from February 11, 1939, on which date he was suspended from his duties as superintendent of the division of street cleaning and garbage to November 17, 1939, on which date he was reinstated to his former position.

Section 2. Upon the making of such an appropriation by the board of supervisors of the city and county of Honolulu, the controller of the city and county of Honolulu is hereby authorized and directed to prepare and approve a voucher for this amount and direct the auditor of the city and county of Honolulu to draw a warrant upon the treasurer of the city and county of Honolulu, for the payment of the same to Llewellyn H. L. Hart, upon the delivery to said auditor of a full release by the said Llewellyn H. L. Hart, of said claim and all other and further claims in connection therewith against the said city and county of Honolulu.

Section 3. This Act shall take effect upon its approval.

(Became effective April 15, 1945, without the Governor's signature.) S.B. 73, Act 18.

Series F-265: ACT 46

An Act to Reimburse John De Mello, Jr., for Lost Equipment Suffered in Connection with a Contract Entered Into with the Honolulu Sewer and Water Commission for the Construction of a Pumping Station at Kaimuki, City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The treasurer of the city and county of Honolulu is hereby authorized and directed to pay upon a warrant drawn by the auditor of the city and county of Honolulu, the sum of six thousand and no/100 dollars (\$6,000.00) to John De Mello, Jr., for the purpose of reimbursing said John De Mello, Jr., for

the lost equipment suffered in connection with that certain contract entered into with the Honolulu Sewer and Water Commission on or about the 30th day of March, 1927, for the construction of a pumping station and equipment at Kaimuki, city and county of Honolulu; provided said amount shall be payable to said John De Mello, Jr., only upon his executing and delivering to said auditor a receipt and release in full of and for all claims and demands whatsoever which he may have against said board of water supply or said city and county, or both of them, arising out of, or in connection with, or relating to, said contract or any matters whatsoever incidental thereto.

Section 2. This Act shall take effect upon its approval.

(Became effective April 25, 1945, having been approved by the legislature over the veto of the Governor.) S.B. 85, Act 46.

Series F-266: ACT 71

REP 149
S.F. 396A.14

An Act to Provide for the Erection and Maintenance of a Temporary War Memorial at Lihue, County of Kauai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of **Kauai** is hereby authorized and directed to erect a stand or other suitable structure as a memorial to the residents of the county who have given their lives while in the armed service of the United States during World War II and to maintain the same until a fitting permanent memorial shall be erected for such purpose. The structure shall be erected in front of the county building at Lihue and shall bear a plaque or plaques on which shall be inscribed the names of the persons to whose memory it is dedicated. The sum of three thousand five hundred dollars (\$3,500.00), or so much thereof as may be necessary, shall be appropriated from the general revenues of the county for the erection of such memorial.

Section 2. This Act shall take effect upon its approval.

(Approved April 30, 1945.) H.B. 346, Act 71.

Series F-267: ACT 245

An Act Authorizing and Directing the Board of Supervisors of the County of Maui to Make an Appropriation for the Acquisition of and to Acquire Additional Land for Kamehameha III School at Lahaina, County of Maui.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Maui are hereby authorized and directed to appropriate the sum of eighteen thousand dollars, or so much thereof as may be necessary, for the acquisition by purchase or condemnation of one and one-half acres, more or less, of land adjoining the grounds of Kamehameha III School at Lahaina, County of Maui, for said school.

Section 2. This Act shall take effect upon its approval.
(Approved May 19, 1945.) H.B. 481, Act 245.

Series F-268: ACT 130

An Act to Provide an Adequate Water Supply for Kapuna, Waihee, County of Maui.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Maui is hereby authorized and directed to replace the existing water supply pipeline to Kapuna, Waihee, County of Maui, with a line of sufficient size so as to provide an adequate water supply for said place, and to appropriate out of the general revenues of the county the sum of twenty thousand dollars (\$20,000.00), or so much thereof as may be necessary, for such purpose.

Section 2. This Act shall take effect upon its approval.
(Approved May 10, 1945.) H.B. 305, Act 130.

Series F-269: ACT 242

An Act to Provide for a Public Memorial
Plaque or Plaques at the County Building, Wailuku,
Maui.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Maui is hereby authorized and directed to attach to or in the county building, at Wailuku, Maui, a plaque or plaques on which shall be inscribed the names of those residents of the county of Maui who have given their lives in the armed forces of the United States of America during World War II.

Section 2. This Act shall take effect upon its approval.
(Approved May 19, 1945.) H.B. 347, Act 242.

4. MISCELLANEOUS AMENDMENTS TO SESSION LAWS.

Series F-270: ACT 70

An Act to Amend Act 113 of the Session Laws
of Hawaii 1941, as Amended, Relating to Temporary
Waiver of Age Retirement Requirements of Members
of the Employees' Retirement System of the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 113 of the Session Laws of Hawaii 1941, as amended, is hereby further amended by changing the date "1945" at the end of section 1 thereof, to read "1947".

Section 2. This Act shall take effect upon its approval.
(Approved April 30, 1945.) S.B. 14, Act 70.

Series F-271: ACT 61

An Act to Repeal Section 3 of Act 251 (Series E-320) of the Session Laws of Hawaii 1941, Relating to Expending Proceeds of Kauai County Bonds for Water Works.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3 of Act 251 (Series E-320) of the Session Laws of Hawaii 1941 is hereby repealed.

Section 2. This Act shall take effect upon its approval.
(Approved April 28, 1945.) H.B. 278, Act 61.

Series F-272: ACT 167

An Act Making an Additional Appropriation for Construction Toward Alleviating the Flood and Drainage Menace to the Town of Kapaa.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of fifty thousand dollars (\$50,000.00) is hereby appropriated out of the general funds of the Territory in addition to all monies heretofore appropriated and to be used for the purposes, and in the manner, provided in Act 274 (Series E-321) of the Session Laws of Hawaii 1941.

Section 2. This Act shall take effect on its approval.
(Approved May 14, 1945.) H.B. 736, Act 167.

Series F-273: ACT 230

An Act Providing for Public Improvements in the County of Maui, and Appropriating Unexpended and Uncontracted Balances of Certain Items in Act 54, Special Session Laws of Hawaii 1941, Act 29, Special Session Laws of Hawaii 1941, and Making an Additional Appropriation from the General Revenues of the Territory, for Said Purposes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The amount of \$25,000.00 heretofore appropriated by item 2 of section 3 of Act 29, Special Session Laws of Hawaii 1941, for the East Molokai Road, is hereby reduced to \$17,500.00 and the balance of \$7,500.00 of said original appropriation, over and above said amount of \$17,500.00, is hereby re-appropriated for the purposes set forth in section 2 of this Act.

Section 2. The following amounts, totaling \$68,500.00, heretofore appropriated by the respective items of the acts hereinafter mentioned, namely:

- (a) The sum of \$7,500.00 mentioned in section 1 of this Act;
 - (b) The sum of \$36,000.00 appropriated by item 1 of section 3 of said Act 29, Special Session Laws of Hawaii 1941; and
 - (c) The sum of \$25,000.00 appropriated by item 5 of section 4 of Act 54, Special Session Laws of Hawaii 1941;
- are hereby re-appropriated in the following respective amounts and for the following respective purposes:

- 1. Puupeeelua Avenue, Molokai.....\$40,000.00
- 2. Waialua bridge, Maui..... 13,000.00
- 3. Concrete bridge to replace iron bridge over stream at extension of lower Market Street, Wailuku, Maui 15,500.00

In addition, the sum of \$37,500.00 is hereby appropriated out of the general revenues of the Territory not otherwise appropriated, for the following purposes:

- 4. Manuwainui bridge, Maui.....\$11,000.00
- 5. Kawaipapa bridge, Maui..... 26,500.00

Section 3. The acts mentioned in sections 1 and 2 of this Act are hereby amended to conform to this Act.

Section 4. Items 1, 2, 4 and 5 of the appropriations or re-appropriations made by section 2 of this Act shall be expended upon vouchers approved by and under the supervision of the superintendent of public works of the Territory, and for the

purposes of said items 1 and 2, the total of \$53,000.00 shall be transferred by the treasurer of the county of Maui to the treasurer of the Territory upon the request of the superintendent of public works, to be held in a special fund; any unexpended balance in said special fund shall be used to reimburse pro tanto the general fund of the Territory by any expenditures made under items 4 and 5 appropriated by said section 2, and if after such reimbursement, any unexpended balance shall still remain, the same shall be transferred to the general fund of said county of Maui.

Item 3 of said re-appropriation made by said section 2 shall be expended by the county of Maui.

Section 5. Any provision of this Act or any other territorial law to the contrary notwithstanding, it is expressly provided that, in the event that it is found possible to secure federal funds made available under any Act of the Congress of the United States to be expended in connection with or for the construction of any of the projects or works authorized by items 1, 2, 4 and 5 appropriated or re-appropriated by section 2 of this Act, the superintendent of public works shall have power to enter into such undertakings with the proper officers or agencies of the federal government, and to do and perform such other acts and things, as may be necessary, or be required by such Acts of said Congress or any regulation or requirements of the federal government, as a condition to securing such federal funds for such projects or works.

This Act shall be liberally construed in order to effectuate its purpose of enabling the Territory to secure the maximum assistance from federal aid funds for the construction and projects hereinabove authorized.

Section 6. This Act shall take effect upon its approval.

(Approved May 19, 1945.) S.B. 177, Act 230.

Series F-274: ACT 16

An Act to Amend Act 14 of the Special Session Laws of Hawaii 1941, Relating to the Study, Investigation, Conservation and Increase in Fish and Shellfish in and for the Territory of Hawaii and for the Active Cooperation of the Board of Agriculture and Forestry with the University of Hawaii and the United States Fish and Wildlife Service, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 14 [E-66] of the Special Session Laws of Hawaii 1941, is hereby amended by deleting the second paragraph thereof.

Section 2. Sections 3 and 4 of Act 14 of the Special Session Laws of Hawaii 1941, are amended by deleting the phrase, "Subject to the limitations of Section 1," appearing at the commencement of each of said sections.

Section 3. All unexpended moneys appropriated by Act 14 of the Special Session Laws of Hawaii 1941, shall be available for the purposes of said Act as herein amended.

Section 4. This Act shall take effect upon its approval.

(Approved April 11, 1945.) S.B. 106, Act 16.

[Note: This Act removes the necessity of matching the territorial appropriation with federal funds before expending the appropriation.]

Series F-275: ACT 47

An Act to Amend Act 8 (Series E-196) of the Session Laws of Hawaii 1943, Relating to Compensation to Members of the Compilation Commission and Other Expenses.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 8 of the Session Laws of Hawaii 1943 is hereby amended by amending section 13 thereof to read as follows:

"Section 13. There is hereby appropriated for the purposes of this Act, the following sums (in addition to moneys allotted by the governor out of the contingent fund) for the following specific purposes:

| | |
|---|---------------|
| Compensation to members of said commis- | |
| sion | \$24,000.00 |
| Clerical assistants, proof reading, printing, | |
| indexing and miscellaneous expense | 30,000.00 |
| Total | \$54,000.00." |

Section 2. The increase of appropriation effected by this Act shall be immediately available for expenditure by the commission as though existing in the original Act together with the sums heretofore made available by the governor, so as to reimburse the printer for work performed in excess of the original estimates of the commission, to augment the compensation to the indexer to a total of \$2,500.00 and to compensate the members of the commission, hereby ratifying the expenditures heretofore made out of said funds.

Section 3. This Act shall take effect on approval.
(Approved April 27, 1945.) S.B. 15, Act 47.

Series F-276: ACT 259

An Act to Amend Act 230 of the Session Laws of Hawaii 1943 by Expanding the Purpose of the Act to Include Public Improvements Generally and the Acquisition of Land for such Purpose in the County of Hawaii, and Changing the Allocation of Certain of the Appropriations Therein.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 230 [E-213] of the Session Laws of Hawaii 1943 is hereby amended in the following particulars:

(a) Amend the title to read:

"An Act Making Appropriations by Way of Advancement from the General Fund of the Territory to be Repaid Out of the Proceeds of Sale of Public Lands in the County of Hawaii for the Construction of Certain Roads and Other Public Improvements and the Acquisition of Land for such Purpose in the County of Hawaii."

(b) Amend the first six lines of section 1 to read as follows:

"Section 1. The sum of one hundred fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated by way of advancement out of the general fund of the Territory of Hawaii, not otherwise appropriated for the construction of certain roads and other public improvements and the acquisition of land therefor in the county of Hawaii."

(c) Amend items 3, 8 (a) and 13 of section 1 to read respectively as follows:

"3. Acquiring of land and right-of-way by purchase or condemnation, clearing and improvement of same for a public park by the board of supervisors at Mahukona, Kohala, Hawaii\$ 4,000.00."

"8 (a). Ahualoa Homestead Road (Hamakua) from Lot 1, Grant 5174 towards Lot 12, Grant 4923, 3rd Series Tax Map Key 4.....\$ 4,500.00."

"13. Kaiwika Homestead Road (South Hilo) from Lot 17 Parcel 27 towards Grant 3998, Tax Map Key 2-6-10\$ 4,000.00."

Section 2. This Act shall take effect upon its approval.

(Approved May 21, 1945.) H.B. 129, Act 259.

Series F-277: ACT 180

An Act to Extend the Land Laws Revision Commission; Amending Joint Resolution 10 of the Twenty-Second Legislature.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Joint Resolution 10** of the Twenty-Second Legislature, Regular Session of 1943, is hereby amended in the following respects:

(a) By deleting the date "January 1, 1945", which appears in the seventh line of section 1 thereof, and by inserting in lieu thereof "January 1, 1947".

(b) By deleting the figures "1945" which appear in the fourth line of section 3 thereof, and by inserting in lieu thereof "1947".

Section 2. This Act shall take effect upon its approval, and shall be applied so as to give continuity to the offices, duties and powers of, and the appropriation for, the members of the land laws revision commission, whether or not this Act takes effect prior to the expiration of said Joint Resolution 10 as originally enacted.

(Approved May 15, 1945.) S.B. 256, Act 180.

JOINT RESOLUTIONS

J. R. 1

Joint Resolution to Temporarily Continue in Effect Hawaii Defense Act Rule Number 105, as Amended, Relating to the Use and Occupancy of Commercial Premises and Transactions Related Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Rule number 105, issued by the governor on June 9, 1944 under the authority of the Hawaii Defense Act, as amended by rule number 109, issued by the governor on July 17, 1944 under said Hawaii Defense Act, is hereby continued in effect until and including March 31, 1945. This Joint Resolution shall supersede rule number 128 issued by the governor on December 30, 1944, which fixed February 28, 1945 as the expiration date of said rule number 105, as amended.

Section 2. Nothing in this resolution shall be deemed to repeal by implication any of the provisions of the Hawaii Defense Act.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved February 28, 1945.) H.J.R. 2, J.R. 1.

J. R. 2

Joint Resolution Requesting the Establishment of a Regional Office Under the United States Veterans' Administration in the Territory of Hawaii.

WHEREAS, veterans of the armed forces have been generously remembered by the Congress of the United States and provision has been made under federal legislation for the prompt and adequate relief of veterans residing on said mainland by the establishment of regional offices throughout said mainland but no such provision for a local office with power to adjudicate and administer such benefits has been made for the Territory of Hawaii; and

WHEREAS, there are approximately 50,000 citizens or nationals of the United States who are residents of this territory, and who are now, or will be, entitled to the benefits of the various acts of the said Congress intended to assist disabled, handicapped, needy and other veterans and their dependents; and

JOINT RESOLUTIONS

WHEREAS, at the present time, due to said lack of a regional office, and to the fact that this territory is more than 2,000 miles from the nearest regional office and more than 4,000 miles from the central office of said Veterans' Administration in Washington, D. C., veterans who are residents of this territory are in danger of losing the advantages and benefits which come from prompt action on their cases, and may be subjected to unnecessary hardship by reason of the delays necessarily attendant upon negotiations through the local office which is now a mere forwarding office without power either to adjudicate or administer such benefits; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States of America be, and it hereby is, requested to enact legislation directing and making adequate financial provision for the establishment and operation in the Territory of Hawaii of a regional office with the same authority to adjudicate and administer such benefits and otherwise to act with respect thereto as is accorded to other regional offices on the mainland of said United States, and that, until action upon this request can be taken by said Congress, the Veterans' Administration be and it hereby is urgently requested to establish, to the full extent legally possible, a temporary and more nearly adequate Veterans' Administration service in the Territory of Hawaii.

Section 2. That duly authenticated copies of this Joint Resolution be forthwith transmitted to the Delegate to Congress from Hawaii, the Secretary of the Interior, the United States Veterans' Administration, and to each of the two houses of the Congress of the United States.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved March 27, 1945.) H.J.R. 8, J.R. 2.

JOINT RESOLUTIONS

J. R. 3

Joint Resolution Memorializing the Congress of the United States of America to Extend the Right to Become a Naturalized Citizen of the United States to Persons Whose Sons or Daughters have Served Honorably in Any Branch of the Armed Forces of the United States of America and Who Themselves Have Not Been Disloyal to the United States of America.

WHEREAS, we are now engaged in the successful prosecution of a world war against the forces of totalitarianism, aggression and oppression, which has called for the total mobilization of our national resources and the united efforts of all our peoples; and

WHEREAS, in keeping with our democratic ideals and our national heritage, the might of our armed forces has been the product of the mental and physical resources of the men and women of all the many races and peoples who constitute this nation; and

WHEREAS, many men and women of alien descent have faithfully and honorably served in the armed forces of the United States of America and have rendered services of exceptional merit and distinction to this country; and

WHEREAS, there are many persons who are ineligible to American citizenship notwithstanding the part their sons and daughters have performed and the lives they have given in our cause; and

WHEREAS, it is now fitting and proper that we share our most cherished birthright with those whose sons and daughters have thus contributed in such large measure to our cause and who themselves have not been disloyal to the United States of America; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States of America be and it is hereby earnestly requested to enact legislation to amend the naturalization laws in such a manner as to provide that all persons whose sons or daughters have served honorably in any branch of the armed forces, merchant marine, the army transport service or other like services of the United States of America, and who themselves have not been disloyal to the United States of America and who otherwise comply with the requirements of the naturalization laws, may become citizens of the United States of America, without being barred upon the ground either of nationality or race.

JOINT RESOLUTIONS

Section 2. That duly authenticated copies of this Joint Resolution be transmitted to the Delegate to Congress from Hawaii, the Secretary of the Interior, and each of the two houses of the Congress of the United States of America.

(Approved April 18, 1945.) S.J.R. 2, J.R. 3.

J. R. 4

Joint Resolution Requesting All Committees of the Senate and House of Representatives of the Twenty-Third Legislature to Cooperate in the Framing of Proposed Legislation in Conformity with the Style and Arrangement of the Revised Laws of Hawaii 1945 and Authorizing the Secretary of the Territory of Hawaii to Perform Certain Acts in Connection Therewith.

WHEREAS, it is desirable that all laws enacted by the legislature subsequent to the latest revision of the laws of the Territory shall, for the purpose of finding and citing such subsequent laws, conform in style and arrangement and designation and supplementary sequence as near as may be with the latest revision of such laws; now therefore

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That all committees of said legislature be and they are hereby requested, prior to recommending the passage of any bill, to conform the style thereof as near as may be with that of the Revised Laws of Hawaii 1945, and, to that end, to follow as closely as is possible the following policies:

a. Bills which are intended to amend laws which are incorporated as sections of the Revised Laws of Hawaii 1945 should so provide. No bill should be recommended for passage which amends a prior Act or Acts of the legislature so incorporated in such Revised Laws without specifically amending the section or sections of such Revised Laws embodying such prior Act or Acts.

b. The incorporation in proposed Acts of the legislature of new chapter or section numbers should be avoided whenever possible. The insertion of appropriate chapter or section numbers which will place amendments or new chapters or sections in an appropriate supplementary sequence with the said Revised Laws of Hawaii 1945 can best be done only after assembly and analysis and compilation of all Acts of the legislature enacted at any session, after the final approval thereof, pursuant to the provisions of section 2 of said Revised Laws and the provisions of this resolution.

JOINT RESOLUTIONS

c. That whenever the addition of new section numbers appears to be unavoidable because of the context of a bill, and section numbers in appropriate sequence with the section numbers of the said Revised Laws are not available, in numbering such new sections the decimal system starting with ".01" should be used rather than the system of adding letters or other symbols.

Section 2. That the secretary of the Territory be and he is hereby authorized, in complying with the provisions of section 2 of said Revised Laws, before publishing any Act in book form, to change or correct any chapter or section numbers contained as a part of or referred to in any such Act, whenever necessary to carry out the intent of said section 2. Such changes shall be made on the engrossed copy of each such Act and shall be initialed by the secretary thereon.

Section 3. That any Act of the legislature may be cited by reference to the chapter and section numbers as inserted or added or changed by the secretary of Hawaii pursuant to the provisions of said section 2 and the provisions of this resolution as the same are set forth in the printed volume of the laws enacted at any regular session of the legislature, published in book form by said secretary pursuant to the provisions of said section 2 and of this resolution.

Section 4. This Joint Resolution shall take effect upon its approval.

(Approved April 18, 1945.) S.J.R. 7, J.R. 4.

J. R. 5

Joint Resolution Relating to the Division of Certain Public Lands on the Island of Hawaii into House Lots and the Sale of the Same.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The governor of the Territory of Hawaii and the commissioner of public lands are hereby requested and authorized (in so far as it lies within the power of this legislature so to do), to withdraw from the Pohakuloa Forest Reserve 500 acres of land near the locality on which the Civilian Conservation Corps had their camp at Pohakuloa, Kaohe IV in Hamakua, County of Hawaii, and cause the same to be subdivided and sold for house lots.

JOINT RESOLUTIONS

Section 2. The commissioner of public lands is hereby requested to negotiate with the holder of General Lease No. 1976 for the release of the portions of land adjacent to and north of the present Waimea Homesteads and to proceed as expeditiously as possible with the subdivision and sale as house lots of the portions released from the above mentioned general lease.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved April 26, 1945.) **H.J.R. 3, J.R. 5.**

J. R. 6

Joint Resolution Memorializing the Congress of the United States of America to Make Available as Hawaiian Home Lands a Certain Parcel of Land Situate on the Island of Maui, Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States of America be and it is hereby respectfully requested to amend section 203 of title 2 of the Hawaiian Homes Commission Act, 1920, as amended, so as to include as available Hawaiian home lands a certain parcel of government land situate in the district of Wailuku, island and county of Maui, Territory of Hawaii, comprising 12.455 acres of the Ili of Kou and being a portion of the land covered by General Lease No. 2286 to Wailuku Sugar Company, Limited, notwithstanding the fact that said parcel is cultivated sugar cane land, subject, however, to the term of said lease.

Section 2. That duly authenticated copies of this Joint Resolution be forwarded to the Delegate to Congress from Hawaii, the Secretary of the Interior and to each of the two houses of the Congress of the United States of America.

(Approved April 28, 1945.) **H.J.R. 7, J.R. 6.**

JOINT RESOLUTIONS

J. R. 7

Joint Resolution to Provide for the Subdivision and Sale of Residence Lots at Waimea, Island and County of Kauai, Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The commissioner of public lands and the board of public lands in accordance with **section 4540** of the Revised Laws of Hawaii 1945, are hereby directed to:

(a) select, after consultation with the board of supervisors of the county of Kauai, a sixty acre tract from the public lands on the ridge back of Waimea High School, Kauai, and to subdivide and sell the same for residence purposes;

(b) contract with the board of supervisors of said county for the construction by it of the roads necessary to such project, pursuant to the provisions of **section 4527** of the Revised Laws of Hawaii 1945, and, with the approval of the governor, designate sufficient of the proceeds from the sale of public lands on the island of Kauai, as required for the construction of said roads, pursuant to the provisions of **section 4526** of said Revised Laws, and as reimbursement to the county of Kauai, pursuant to the provisions of said **section 4527**, for the moneys expended by it for such construction.

Section 2. This Act shall take effect on October 1, 1953, or upon the surrender from the current lease of said tract, if a surrender of said tract can be secured prior to such date.

(Approved May 8, 1945.) **H.J.R. 24, J.R. 7.**

J. R. 8

Joint Resolution to Create a New Territorial Holiday to be Known as Franklin Delano Roosevelt's Birthday.

WHEREAS, history will record the deeds of the late Franklin Delano Roosevelt, late President of the United States of America, as worthy to be compared with the deeds of those two other noble and outstanding Presidents of this Country, George Washington and Abraham Lincoln; and

WHEREAS, the Territory of Hawaii has by law set aside the 22nd day of February as a holiday to celebrate the birth of George Washington and to revere his memory and the 12th day of February as a holiday to celebrate the birth of Abraham Lincoln and to revere his name; now, therefore

JOINT RESOLUTIONS

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The 30th day of January is hereby declared a holiday in the Territory of Hawaii to celebrate the birth of Franklin Delano Roosevelt and to revere his memory.

Section 2. This Joint Resolution shall take effect on its approval.

(Approved May 14, 1945.) **H.J.R. 31, J.R. 8.**

[This resolution amends § 21, R. L. 1945.]

J. R. 9

Joint Resolution Providing for a Study of the Regulation and Taxation of Motor Vehicle Transportation, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the Territory the sum of five thousand dollars, to be expended on vouchers approved by the governor or his authorized representative, for the making of a study of the taxation and regulation of motor vehicle transportation, the results thereof to be reported to the Twenty-Fourth Legislature, together with recommendations for such amendments and revisions of the laws relating thereto as in the opinion of the governor are necessary or advisable in order that the public interests may best be served, and in order that a fair and just share of the revenues of the Territory and its political subdivisions may be produced from such source.

Section 2. The governor and his authorized representative may subpoena witnesses and exercise the other powers set forth in section 13131 of the Revised Laws of Hawaii 1945, in the manner therein set forth, for the purpose of ascertaining facts relevant to the study provided for by section 1.

Section 3. The governor shall have power to appoint one or more advisory committees and to expend the moneys appropriated by this Joint Resolution for the travelling expenses and other necessary expenses of said committees, but no part of the appropriation made by this Joint Resolution shall be expended for salaries, except for necessary stenographic and clerical assistants.

Section 4. This Joint Resolution shall take effect upon its approval.

(Approved May 17, 1945.) **H.J.R. 17, J.R. 9.**

JOINT RESOLUTIONS

J. R. 10

Joint Resolution Requesting the Congress of the United States of America to Increase the Compensation of Certain Territorial and Federal Officers.

WHEREAS, the compensation now paid to congressmen including the delegate to Congress from the Territory of Hawaii is utterly inadequate to enable them to provide reasonable maintenance for themselves and their families and to meet the heavy expenses involved in the proper performance of their duties and the maintenance of the services required of them by law or demanded of them by the communities which they represent, particularly in view of the great increase in the cost of living in recent years; and

WHEREAS, such condition has resulted and will continue to result in deterring or preventing able citizens in moderate financial circumstances from seeking election to the said Congress; and

WHEREAS, in view of the growth of the Territory and the higher cost of living prevailing therein over many if not most mainland areas and the recent large increases in rates of compensation paid to persons engaged in both public and private employment, the compensation now fixed by federal laws for circuit judges, supreme court justices, United States district court judges, and the governor, secretary and members of the legislature of the Territory, is likewise utterly inadequate; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States of America is hereby respectfully requested to increase the compensation of the following officers:

Delegate to Congress from the Territory of Hawaii and other members of the Congress;

Governor of the Territory of Hawaii;

Chief Justice and Associate Justices of the Supreme Court of said Territory;

Judges of the United States District Court for said Territory;

Judges of the Circuit Courts of said Territory;

Secretary of said Territory; and

Members of the Legislature of said Territory for each regular session and for any extra session thereof.

JOINT RESOLUTIONS

Section 2. Duly authenticated copies of this Joint Resolution shall forthwith be forwarded to the delegate to Congress from the Territory of Hawaii, to the Secretary of the Interior and the Attorney General of the United States, and to each of the two houses of the Congress of the United States.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved May 17, 1945.) S.J.R. 5, J.R. 10.

J. R. 11

Joint Resolution to Provide for the Subdivision and Sale of Residence Lots at Wailua, Lihue District, Island and County of Kauai, Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The commissioner of public lands and the board of public lands are hereby requested to arrange for the withdrawal from General Lease No. 2723 covering the government land in Wailua, Kauai, an area of seventy-five (75) acres, a little more or less, and to subdivide and sell said land for residence purposes. The westerly portion of the aforesaid land runs along the makai side of the government main road and is bounded on the north and east by government land and Grant 9894 and on the south by Lydgate Park—also shown on tax map of Kauai, Key No. 3-9-02-8.

Section 2. The commissioner and the board of public lands are further requested to contract with the board of supervisors of said county for the construction by it of the roads necessary to such project, pursuant to the provisions of section 4527 of the Revised Laws of Hawaii 1945, and, with the approval of the governor, to designate sufficient of the proceeds from the sale of public lands on the island of Kauai as required for the construction of said roads, pursuant to the provisions of section 4526 of said Revised Laws, and as reimbursement to the county of Kauai, pursuant to the provisions of said section 4527, for the moneys expended by it for such construction.

Section 3. This Joint Resolution shall take effect on its approval.

(Approved May 22, 1945.) H.J.R. 27, J.R. 11.

JOINT RESOLUTIONS

J. R. 12

Joint Resolution Creating a Territorial Hospital Service Study Commission, Prescribing Its Powers and Duties, and Those of the Legislative Reference Bureau, Concerning a Study and Report on Hospital Services and Costs and a Study and Report on Burials and Costs and the Feasibility and Cost of Establishing a Territorial System of Health Insurance and of Burial Insurance, and Making an Appropriation Therefor.

WHEREAS, the maintenance of adequate hospital facilities (including necessary personnel) in constant readiness, and the furnishing of such facilities to the people of the Territory at such individual expenses as will not unduly deter utilization of hospital facilities, are necessary to the public health and welfare; and

WHEREAS, the maintaining in constant readiness of such hospital facilities constitutes a public service of benefit to all residents of the Territory, and the continuing costs of maintaining said facilities should equitably be borne by all persons benefited; and

WHEREAS, it has been proposed that the continuing costs of maintaining necessary hospital facilities in a state of readiness be defrayed out of the public revenues, the costs attributable to the rendition of services to particular patients to be borne by the persons served, and said proposal merits serious study and consideration; and

WHEREAS, by House Bill No. 659, introduced in the Twenty-Third Legislature, it is proposed that there be established in the Territory a system of health insurance, a health insurance commission and a health insurance fund; and

WHEREAS, the costs and services of burials are of vital interest to the health and morale of the community and it has been proposed that there be established and maintained by the Territory a system of burial insurance; now therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby created the Territorial Hospital Service Study Commission consisting of seven members who shall be appointed by the governor in the manner prescribed in section 80 of the Organic Act and who shall hold office for a term of two years. Public officers and employees shall be eligible to serve as members of said commission and the governor shall designate one of the members of the commission as chairman thereof. The Director of the Legislative Reference Bureau shall serve as secretary for the commission.

JOINT RESOLUTIONS

Section 2. The members of the commission and the secretary shall serve without pay, but they and their stenographic, clerical and professional assistants shall be entitled to their reasonable and necessary traveling expenses incurred in the discharge of their duties and, when required to travel from any island to another island in the Territory in the performance of such duties, shall be allowed, in addition to transportation fares, ten dollars a day to cover all other expenses.

Section 3. The commission is hereby authorized and directed to make a comprehensive study of hospital and burial services and costs in the Territory of Hawaii and to make its report and recommendations for bills or otherwise to the next regular session of the Legislature of the Territory of Hawaii.

Section 4. The Legislative Reference Bureau shall collaborate with the commission through a comprehensive study and investigations of all matters relating to hospitals and burials, financing and services, estimates of the cost of providing and maintaining out of public revenues adequate hospital and burial facilities for the people of the Territory, and the submission to the commission of all data so assembled and such other information and reports as are requested of it by the commission. The Legislative Reference Bureau shall include in its studies the feasibility of establishing a territorial system of health insurance, and shall report all available information and data thereon to the commission, which shall render to the next regular session of the Legislature its findings and recommendations thereon. The Legislative Reference Bureau shall assemble and direct such special research and clerical staff as shall be necessary for the foregoing purposes, and for which provision is made out of the funds hereinafter appropriated.

Section 5. There is hereby appropriated out of the general revenues of the Territory the sum of fifty thousand dollars (\$50,000.00), or so much thereof as may be necessary, for the payment of expenses of the commission and for such special research and clerical staffs as it or the Legislative Reference Bureau may need for the purposes of this Joint Resolution. Such sum appropriated shall be disbursed upon vouchers approved by the chairman of the commission.

Section 6. This Joint Resolution shall take effect upon its approval.

(Approved May 22, 1945.) S.J.R. 10, J.R. 12.

JOINT RESOLUTIONS

J. R. 13

Joint Resolution Appropriating One Hundred Thousand Dollars for the Transportation, Entertainment Costs and Expenses of Congressmen Visiting Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of one hundred thousand dollars or so much thereof as may be necessary, is hereby appropriated from the general revenues of the Territory of Hawaii to pay the transportation and entertainment costs and the expenses of such members of the Senate and of the House of Representatives of the Congress of the United States of America as may visit Hawaii between the date of enactment of this Joint Resolution and the first of July, 1947, upon the invitation of the governor to investigate the propriety of immediate statehood and other problems directly affecting the welfare of Hawaii, issued as hereinafter provided.

Section 2. Members of the Senate and of the House of Representatives shall be selected for invitation and invited by the governor of Hawaii to visit the Territory for such purposes, and said invitations shall be extended by the governor through the delegate to Congress from Hawaii.

Section 3. The money appropriated hereby, or so much thereof as may be necessary, shall be paid by the territorial treasurer upon warrants which the territorial auditor shall issue based upon vouchers approved by the governor.

Section 4. This Joint Resolution shall take effect upon its approval.

(Approved May 23, 1945.) S.J.R. 13, J.R. 13.

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§ = section R.L. 1945
s. = section of S.L.

c. = Act of S.L.
A, B, etc. = series of S.L.

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| 5257 | 31,A-100 | 5923 | 8,E-220 | 6760.01 | 237,B-137 | 8767.01 | 188,C-151 |
| 5260 | 82,A- 87 | 5924 | 82,A- 87 | 6761 | 237,B-137 | to | |
| 5260 | 8,E-220 | 5924 | 8,E-220 | to | | 8767.04 | 188,C-151 |
| 5343 | 121,A-101 | 5926 | 8,E-220 | 6763 | 237,B-137 | 9308.01 | 214,C-152 |
| 5358 | 208,A-102 | 5927 | 42,A-117 | 6764 | 237,B-137 | to | |
| 5374 | 100,A-103 | Counties: | | to | | 9308.08 | 214,C-152 |
| 5381 | 92,A- 99 | 6007 | 83,A-111 | 6767 | 237,B-137 | Courts, etc.: | |
| 5383 | 253,A-104 | 6008.01 | 43,B-118 | 6768 | 237,B-137 | 9503 | 194,D-153 |
| 5444.01 | 243,A- 93 | 6008.02 | 43,B-118 | to | | 9633 | 142,D-154 |
| [5454] | 100,A-103 | 6009.01 | 133,A-114 | 6770 | 237,B-137 | 9655 | 142,D-154 |
| 5455 | 100,A-103 | 6017 | 162,B-119 | 6771 | 237,B-137 | 9656 | 142,D-154 |
| 5455 | 253,A-104 | 6095 | 33,B-120 | 6772 | 237,B-137 | 9658 | 178,D-155 |
| 5459 | 253,A-104 | 6124 | 172,A- 86 | 6772 | 83,A-111 | 9671 | 80,D-156 |
| 5459 | 158,A-105 | 6130 | 68,B-121 | 6773 | 237,B-137 | 9675 | 80,D-156 |
| 5460 | 253,A-104 | 6135 | 68,B-121 | 6774 | 237,B-137 | 9701 | 226,D-157 |
| | | | | 6775 | 237,B-137 | 9728 | 80,D-156 |

